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AMERICANS BY CHOICE

Americanization Studies

SCHOOLING OF THE IMMIGRANT.
Frank V. Thompson, Supt. of Public Schools, Boston

AMERICA VIA THE NEIGHBORHOOD.
John Daniels

OLD WORLD TRAITS TRANSPLANTED.
Robert E. Park, Professorial Lecturer, University of Chicago
Herbert A. Miller, Professor of Sociology, Oberlin College

A STAKE IN THE LAND.
Peter A. Speek, in charge, Slavic Section, Library of Congress

IMMIGRANT HEALTH AND THE COMMUNITY.
Michael M. Davis, Jr., Director, Boston Dispensary

NEW HOMES FOR OLD.
Sophonisba P. Breckinridge, Professor of Social Economy, University of Chicago

THE IMMIGRANT PRESS AND ITS CONTROL.
Robert E. Park, Professorial Lecturer, University of Chicago

ADJUSTING IMMIGRANT AND INDUSTRY. (In preparation)
William M. Leiserson, Chairman, Labor Adjustment Boards, Rochester and New York

AMERICANS BY CHOICE.
John P. Gavit, Vice-President, New York *Evening Post*

THE IMMIGRANT'S DAY IN COURT. (In press)
Kate Holladay Claghorn, Instructor in Social Research, New York School of Social Work

SUMMARY. (In preparation)
Allen T. Burns, Director, Studies in Methods of Americanization

Harper & Brothers Publishers

AMERICANIZATION STUDIES
ALLEN T. BURNS, DIRECTOR

AMERICANS BY CHOICE

BY

JOHN PALMER GAVIT

HARPER & BROTHERS PUBLISHERS
NEW YORK AND LONDON
1922

AMERICANS BY CHOICE

First Edition
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PUBLISHER'S NOTE

The material in this volume was gathered by the Division of Health Standards and Care of Studies in Methods of Americanization.

Americanization in this study has been considered as the union of native and foreign born in all the most fundamental relationships and activities of our national life. For Americanization is the uniting of new with native-born Americans in fuller common understanding and appreciation to secure by means of self-government the highest welfare of all. Such Americanization should perpetuate no unchangeable political, domestic, and economic regime delivered once for all to the fathers, but a growing and broadening national life, inclusive of the best wherever found. With all our rich heritages, Americanism will develop best through a mutual giving and taking of contributions from both newer and older Americans in the interest of the commonweal. This study has followed such an understanding of Americanization.

FOREWORD

This volume is the result of studies in methods of Americanization prepared through funds furnished by the Carnegie Corporation of New York. It arose out of the fact that constant applications were being made to the Corporation for contributions to the work of numerous agencies engaged in various forms of social activity intended to extend among the people of the United States the knowledge of their government and their obligations to it. The trustees felt that a study which should set forth, not theories of social betterment, but a description of the methods of the various agencies engaged in such work, would be of distinct value to the cause itself and to the public.

The outcome of the study is contained in eleven volumes on the following subjects: Schooling of the Immigrant; The Press; Adjustment of Homes and Family Life; Legal Protection and Correction; Health Standards and Care; Naturalization and Political Life; Industrial and Economic Amalgamation; Treatment of Immigrant Heritages; Neighborhood Agencies and Organization; Rural Developments; and Summary. The entire study has been carried out under the general direction of Mr. Allen T. Burns. Each volume appears in the

name of the author who had immediate charge of the particular field it is intended to cover.

Upon the invitation of the Carnegie Corporation a committee consisting of the late Theodore Roosevelt, Prof. John Graham Brooks, Dr. John M. Glenn, and Mr. John A. Voll has acted in an advisory capacity to the director. An editorial committee consisting of Dr. Talcott Williams, Dr. Raymond B. Fosdick, and Dr. Edwin F. Gay has read and criticized the manuscripts. To both of these committees the trustees of the Carnegie Corporation are much indebted.

The purpose of the report is to give as clear a notion as possible of the methods of the agencies actually at work in this field and not to propose theories for dealing with the complicated questions involved.

TABLE OF CONTENTS

CONTENTS

CONTENTS

CONTENTS

CONTENTS

LIST OF TABLES

LIST OF TABLES

LIST OF TABLES

LIST OF TABLES

LIST OF TABLES

LIST OF DIAGRAMS

INTRODUCTION

It would require a very long list of names to give specific mention of all those who have rendered substantial aid in gathering the information on which this volume is based. The Commissioner of Naturalization, Mr. Richard K. Campbell; the former Director of Citizenship, Mr. Raymond F. Crist, and the chief examiners under their direction, have done all in their power to afford information and other assistance. Several hundred judges of naturalization courts in all parts of the country, took pains to answer our questionnaire and personal letters on special questions. Students of immigration and naturalization problems have been ungrudging in their co-operation.

The tedious and painstaking work of compiling the information contained in more than 26,000 petitions for naturalization, analyzed in the statistical chapters of this book, was done more especially under the direction of Professor Raymond Moley, then at Western Reserve University, Cleveland; Hornell Hart, of Cincinnati; Professor S. C. Kohs, of Reed College, for Portland, Oregon; Professor T. T. Waterman, of the University of the state of Washington, for Seattle, and Professor L. H. Hawkins, of Clark University, for Worcester, Mass. Aside from the service of these volunteer assistants, thanks are due in more than perfunctory manner to the members of the staff of the Americanization Study who devoted long hours to this exacting task.

AMERICANS BY CHOICE

I

OF THEIR OWN FREE WILL

FROM the point of view of citizenship there are two kinds of Americans—those who are American involuntarily by birth, and those who are *American by choice.*

This book devotes itself to those who have become Americans not by birth, but of their own free will and accord, by that process of voluntarily adopting a fatherland known as Naturalization. It endeavors to tell generally what happens to them in that process, and something of what they do and contribute to our *political* life after they have been admitted to active membership in our body politic.

The subject is one much talked about—especially since the beginning of the World War—and little understood save by those who administer, or who in some way profit by, the operation, the shortcomings, and confusions of the existing law and the system which has grown up under it. That system is handicapped and beclouded by public indifference and by the survival of ancient attitudes and limitations, and bedeviled by the theories and prejudices of persons and interests who, innocently or willfully—often with impeccable intentions—stand in the way of progress or adhere for various

reasons to ideas and methods long since outgrown, or in the light of to-day actively mischievous.

THESE ARE OUR VOTERS!

It is a current fashion of unthinking persons, contemplating the seething masses of immigrants congested in our cities and in certain rural sections, beholding the polyglot store signs and newspapers, sensing the existence of languages, manners, and customs unfamiliar and perhaps grotesque and even outrageous to their own habits and ideas of propriety, and reflecting vaguely upon the real and supposed evils of our political methods and machinery, to exclaim:

"And these are the people who corrupt our politics! These are the voters who elect our presidents!"

Many who should know better indulge in such absurdities, and even cite statistics to support them. A characteristic manner of reasoning would read something like this:

"In 1910 there were 13,000,000 foreign-born persons in the United States, and only a little more than 3,000,000 of them were naturalized!"

Leaving the unreflecting hearer to forget that of the 13,000,000 only about half (6,646,817) were males of twenty-one years and over; that more than half a million (570,772) had declared their intention to become citizens; that there was no report as to the citizenship of more than 775,000; so that the alien population of voting age, and of the then voting sex, known to be unnaturalized, was only about one-sixth of the total foreign born, or 2,266,535. This was bad enough in all conscience, and the Woman-Suffrage Amendment to the Constitution of the United States certainly has aggravated it, since through it married immigrant women were made possible voters

through the naturalization of their husbands. But nothing can be gained by exaggerating the facts, or constructing mare's nests by inferences from false assumptions. It is worth while to examine the conditions, to observe the extent to which the foreign born actually do participate in our political processes, and on the basis of such facts as are available, to judge the effect that foreign birth does tend to have upon the quality of that participation.

There is no disposition here to overlook or minimize the menace to our social and civic life involved in the presence of vast masses of undigested, unassimilated population of whatever race or kind—even of our own people, herded in colonies, dominating large communities, illiterate as regards our history and ideals, ignorant of our language, traditions, and customs. It constitutes a social problem of great magnitude and intricacy—though probably by no means so menacing as it is our fashion to believe. But it is not one directly affecting our political life or the operation of our political machinery to any such degree as it is the custom to declaim. There is little substantial evidence in these days that the foreign-born voter, as such, is a source of corruption or other evil influence in our politics.

PRIMITIVE ATTITUDES TOWARD IMMIGRANTS

Whether it is called an instinct, native in animal psychology, or an inheritance of mental habit and tradition handed down from remote times of family and tribal necessity, the fact is that we all regard the stranger with a suspicion, diminishing perhaps as we broaden with years, experience, and culture, but never entirely lost. Exceedingly few are those great souls who have no trace of it. Especially if the stranger

wears a differently colored skin, expresses his thought by unfamiliar vocal sounds and inflections, practices customs of clothing, eating, marriage, religion, different from our own; lives in houses of peculiar shape and use—these things all partake, for the average person, of the outrageous and the dangerous, and usually subtly offend those habits of group taste which we somehow feel to have their roots in essential morality and the nature of things.

From time immemorial, all states and communities have laid special disabilities and limitations upon the alien—all based ultimately upon this habitual suspicion of those who belong to another tribe or clan. As Edwin M. Borchard says:[1]

> The legal position of the alien has in the progress of time advanced from that of complete outlawry, in the days of early Rome and the Germanic tribes, to that of practical assimilation with nationals, at the present time. In the Twelve Tables of Rome, the alien and enemy were classed together, the word "hostis" being used interchangeably to designate both. Only the Roman citizen had rights recognized in law. . . . The Germanic tribes, in the early period, were hardly more hospitable to the alien than were the Twelve Tables of the Romans.

With the extension of trade and travel, and especially with the upgrowth of the feudal system, however, the utility of intercourse with peaceable strangers, and the advantage of adding their personal prowess, capacity, and assets to the resources of the community, came to be more and more recognized, and the stranger within the gates was accorded an increasing measure of tolerance, not to say welcome. But this tolerance was at best of a very limited character; practically, it was not much more than a rigid systematizing of the

[1] Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, p. 33 *et seq.*

ways of making the immigrant useful and contributory. It is not the province of this report to dilate upon this branch of the subject. Suffice it to say that to this day, over nearly the whole earth, the alien is still subject to marked limitations, and that the exploitation of him is neither a modern nor an American invention.

As for political rights, let alone any degree of participation in the functions of government, no nation ever has contemplated the possibility of such a thing—until a few of the American states, clamoring for population from any corner of humanity, offered virtually full political participation to the alien immediately upon his mere declaration of intention to apply for citizenship—some day! Until the excitement of the World War brought public attention to the whole question of the position and influence of the foreign born in America, this anomaly remained in force in at least a dozen states: Alabama, Arkansas, Arizona, Indiana, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, Texas, and Oregon. Since then it has been abolished by constitutional amendment or other legislation in all but two—Arkansas and Missouri.[1]

LEGAL POSITION OF THE ALIEN

Thus far, from the point of view of international law and custom, it has been left to each nation to regu-

[1] Letters from Attorneys-General of Arkansas and Missouri, as late as October, 1921, state that no change has been made. The Attorney-General of Alabama points out that a careful reading of the state constitution "discloses that only foreigners who had declared their intention of becoming citizens prior to the adoption of the constitution of 1901 were entitled to register and vote, and that such person lost this right if he did not become a citizen at the time that he was entitled to become such under the laws of the United States."

late the privileges of, and the restrictions upon, the alien, with the exception that certain nations strong enough to enforce it have established in certain countries held by them to be less than fully "civilized," the principle of *extra-territoriality*, by virtue of which their nationals must be tried before special tribunals supervised by representatives of their own nation. Generally speaking, and subject to the rule that aliens of all races must be treated alike under processes of law, a nation may deprive the alien of liberty of action, may prohibit or restrict his ownership of property, may forbid or delimit his employment in certain kinds of work or enterprises, and may expel and deport him, at its pleasure. In other words, the status and rights of an alien are determined almost absolutely by the municipal law in the country in which he is domiciled. The only limitations upon this power are those established by treaties, and by the general spread of humane ideas, and the growing feeling—discouraged, perhaps, but by no means halted, by the World War—of the solidarity of the human race.

In the United States, the rights of the alien include personal protection, protection of property already acquired, and the use of all means of redress and judicial protection enjoyed by citizens.[1]

The alien's plight in this country has been complicated by the peculiar relation subsisting between the Federal government and that of the individual states. For it has frequently happened that the government of the United States has been practically unable to enforce the rights of aliens created by treaty when traversed by state law. On more than one occasion

[1] This is subject, of course, to the universal exceptions regarding alien enemies in time of war; also to such other exceptions as special statutes in certain states regarding the holding of real property and other matters.

threatening diplomatic situations have been created by the existence of this condition.

This ancient feeling toward the alien, and the treatment, legal, extra-legal, and illegal, to which he has been subjected in respect of his person, his family, and his property, undoubtedly have affected substantially his sentiments toward this country. Disillusionment about the atmosphere and ways of the "Land of the Free" is responsible for our loss of the citizenship of many desirable immigrants. The man who will not submit quietly to injustice is of the material of which our best citizens from the beginning have been made. The kind of aliens who can accept without resentment some of the things to which those of foreign birth and speech have been subjected within our borders during very recent times, are not fit to be Americans![1]

WHAT IS AN "AMERICAN"?

We are concerned just now, however, with the alien, not in his general legal or social relations, but as material for active membership in our community as an American citizen, as a voting participant in the sovereignty held in this country by the people. As such, he comes to a position unique in all the world. It is not yet true—perhaps it will be very long before it can be true—that there is absolutely no bar to any person on account of race; for the law and its interpretations exclude from citizenship Chinese, Japanese, and certain people of India not regarded as "white"—although the blacks of Africa are expressly admitted. Nevertheless it may be said broadly that, regardless of race, the immigrant can come to America and win his

[1] See Kate Holladay Claghorn, *The Immigrant's Day in Court* (*in preparation*).

way upon his own merits into the fellowship of what all the world calls "Americans."

Now, what is "an American"? What is it that makes a nation of us if not a distinctive race? What is it that the immigrant joins, body and soul, when he becomes "an American"?

Every little while somebody arises with ashes upon his head and bemoans the threatened disappearance of what he is pleased to call "the American type." He never describes it—it is exceedingly difficult to learn what may be meant by the phrase. This is not strange, for there is no such thing if a racial type is meant. There never has been any such thing.

Perhaps we know what the expression might mean in New England—a combination of English, Scotch, or Welsh, who in turn would be bred of Dane, Pict, and Scot, Saxon and Norman and Kelt, with perhaps a strain of French, or maybe of Dutch. In Pennsylvania very likely it would be English Quaker—or Plattdeutsch. The French-Spanish combination in the Gulf region, the Scandinavian or German in the Middle West and Northwest, the Spanish-Mexican along the Rio Grande and in southern California, and so on, are "American" by a title as good as that of those who trace their descent from the Pilgrim Fathers.

John Graham Brooks[1] remarks that "our piebald millions" are now so interwoven with all that we are "that to silhouette the American becomes yearly more baffling." Says he:

> The early writers have no such misgivings. . . . In 1889 I met a German correspondent who had been four times to the United States. . . . He said he brought back from his first journey a clearly conceived image of the American. He was

[1] John Graham Brooks, *As Others See Us*, 1909.

"sharp-visaged, nervous, lank, and restless." After the second trip this group of adjectives was abandoned. He saw so many people who were not lank or nervous; so many were rotund and leisurely, that he rearranged his classification, but still with confidence. After a third trip he insisted that he could still describe our countrymen, but not by external signs. He was driven to express them in terms of character. The American was resourceful, inventive, and supreme in the pursuit of material ends. "My fourth trip," he said, "has knocked out the final attempt with the others. I have thrown them all over like a lot of rubbish. I don't know what the American is, and I don't believe anyone else knows."

Prof. Franklin H. Giddings, in an informal address at Columbia University, undertook, albeit somewhat casually, to point out the characteristics which should mark a good American. He must be loyal, must "play the game"; must have a local pride not only in the quality of his country but in his home community, feeling and exemplifying a moral and civic responsibility for the betterment of conditions actuated by a wise and constructive idealism. Recognizing, no doubt, in the very saying of this, that these things would mark the good citizen of *any* nation, he protested that after all was said, and despite the difficulty of precise definition, there was something distinctive, perceptible, and, in fact, perceived by the discerning; real, however subtle and elusive, distinguishing the true American from all other folk—"a certain sensitiveness to the finer values of life; an admiration for these things."

Well, certainly the ideal American is, and has, and does all of this; certainly all Americans ought to be, and have, and do all of it! But in all candor and fairness it must be acknowledged that it would be invidious and altogether insupportable to claim it or

any of it as in any proper sense racially distinctive of America.

THE AMERICAN HAS NO RACIAL MARKS

We cannot isolate any physical characteristics; we cannot segregate any particular racial descent; one may search in vain for any definable hereditary mental or spiritual characteristic that will fit or typify all, or even many, of the "piebald millions" who inhabit and vote, attain success and honor, and, at need, enlist or be conscripted for war, in the varied jurisdictions of our tremendous stretch of territory between the ancient French-Canadian colonies of Maine and the Philippines; between the Virgin Islands and Alaska. Even local adherence to our slogans of liberty, democracy, consent-of-the-governed, and all the rest of our ecstatic vocabulary, no longer insulates or distinguishes us in the world. The upspringing democracies of the Old World, to which we have given example and inspiration as well as emancipation from old autocracies, swear by all these phrases as exuberantly as we, and may even outstrip us in the political incarnation of the ideals which hitherto we have regarded as so peculiarly our own!

If, then, we can distinguish "the American" neither by any physical attribute of race nor by adherence to political forms and formulæ, what is there left for us to conserve and to boast about—as our very own?

Let us come straight to the fact that this absence of exclusive racial marks is the distinguishing physical characteristic of the American. True of him as of no other now or ever in the past, is the fact that he is, broadly speaking, the product of *all* races. It is of our fundamental history and tradition from the beginning that in America all peoples may find destination,

if not refuge, and upon a basis of virtual race equality mingle, and for good or ill, send down to posterity in a common stream their racial values—and their racial defects. Whether we like it or not, this is the fact. We are not a race, in any ethnic sense. At most, we are in the very early stages of becoming one.

Prof. Ulysses G. Weatherly, of Indiana University, said:[1]

> Every great historical race is a composite of originally separate elements merged into a unity whose ruling characteristic is an increasing integration of culture rather than of blood. This process of merging is believed by Gumplowicz to constitute the very essence of world history.

And he quotes Gumplowicz, in *Der Rassenkampf*, to this effect:

> Throughout the whole history of men stretches a continuous process of amalgamation which, beginning with the smallest primitive synthetic groups and following a race-building law to us unknown, binds together and amalgamates small, heterogenous groups into even larger unities, into peoples, races, and nations, perpetually bringing them into conflict against other similarly constituted and amalgamated peoples, nations, and races, and through this conflict into ever new fields of conquest and culture, which again consolidates and amalgamates the heterogenous elements.

The American people has been and is being made by exactly this process. We are in the midst of the making of the "American." It does not yet appear what he shall be, but one thing is certain, he is not to be of any particular racial type now distinguishable. Saxon, Teuton, and Kelt, Latin and Slav—to say nothing of any appreciable contribution by yellow and brown races as yet negligible in this aspect of the

[1] *Proceedings of the American Sociological Society*, vol. v, p. 57, etc., paper on "The Racial Element in Social Assimilation."

question—each of the races that we now know on this soil will have its share of "ancestorial" responsibility for the "typical American" that is to be.

NOT RACIAL, BUT CULTURAL

Leaving for the long future, then, the evolution of the hereditary type, is there so soon something "home grown," some "integration of culture," that is peculiarly our own? Every American knows in his heart that however subtle and elusive, however difficult of definition, there is something real that distinguishes "America."

In the attempt to fix the boundaries for the new Poland, the Peace Conference sought in vain for some limits of language or of political unity on which to base their demarcation. It came down at last to a simple question:

"*Do you want to be Poles?*"

And the question was enough.

Who doubts the answer to the question: *Do you want to be American?* There is something more than love of home, something higher than the liking of a cat for the warm place under the familiar stove, that stirs the heart of every normal American when he sees the Stars and Stripes. The alien who declares it his intention to become a citizen of the United States may not be able to put it in words, but he means, and he knows that he means, something real and vital, recognizes a substantial distinction, when he says that *he wants to be an American!*

There must be, there is, there has been always, in the midst of the racial chaos which to-day constitutes perhaps our greatest social problem, something that may be called nationally even if not yet racially *American;* something indigenous on this soil as on no

other. It belongs to us. Up to a time beginning a quarter of a century ago, when the so-called "new immigration" from southeastern Europe and southern Russia set in in full flood, and now anew in the experiences of the World War, it was and has again become, a thing shared by all of our racial groups and elements—*peculiarly American.* It answers the test set forth by Professor Weatherly in the paper already quoted, of the completion of the nationalizing process: ". . . when the things of the spirit are held in common and cherished by all, even if some specific ethnic or linguistic differences survive." Or, in the words which he attributes to Renan:

> To have a common glory in the past, a common will in the present; to have done great things together, to desire to do still greater—these are the essential conditions for being *a People.*

Professor Weatherly repeatedly emphasizes the great point—that "it is not sufficient that peoples should merely have undergone similar experiences" in order to be knit into a nation; "they must have undergone them *together.*" Most of the great modern nations, as he says, have passed through the same processes of social change, "but in actual adjustment to such change each has had its own separate career."

Twenty-five years ago it was true that the term "American" meant one who, of whatever racial descent, represented something very definite, of tradition, experience, and achievement—and of promise, too—"a common glory in the past, a common will in the present"; "great things done together, and a desire to do still greater"; unity determined not by external facts alone, but by sentiment.

Now, dimly as we yet realize it, it is true again. A baptism of blood and suffering, of sacrifice and self-

denial, and of common experience in a vast world emergency, and out of it a vision of better understanding and a great work before us to be done, have gone far to restore that unity of appreciation of "great things done *together*" and of will to do still greater which was our common glory—and was getting lost. We had, we have now, a right to be both proud and jealous of the heritage left us by our fathers of many races, and now watered by the blood of our own generation, and to look with concern, if not with dismay, upon what might portend a swallowing up of this moral, this sentimental unity, in a great inundation of newcomers, who, however well intending as individuals, have not shared our tradition and experience, and who seem not to have been fitted by any experience of their own to assimilate either the tradition of our past or our aspiration for the future.

ESSENTIALS OF "AMERICANISM"

There are essentials distinctively American upon which we can base our definition of "America" and typify her in the human being who by spirit, vision, and vigilance best represents our tradition and our aspiration. Such a definition will hold against the world—even against those of our own household who neither exemplify nor understand it. The sum total of these essentials is not paralleled now, nor in history, anywhere else on earth. For of America alone it may be said:

That however lamely and insufficiently we have lived up to it, *our country is traditionally the refuge for the oppressed of every land.*

That here the individual has found a fuller freedom to seek his happiness in his own way. More than any other nation, America has never recognized a political

autocracy, has reckoned Man above every consideration of property, class, or dynasty.

That here only has *the individual male from the beginning been deemed the ultimate political unit*—"one man, one vote." The country-wide adoption of Woman Suffrage extends this concept to include women.

That however crudely we have practiced it, we have aspired *to estimate essential justice and the common sense of right relationship—fair play between man and man—as the final standard and appeal of human conduct, over against every claim of precedent and authority.*

That from the outset of this nation, the distinguishing spirit of America has been *a protest against Militarism and the domination of the professional soldier, against compulsory military service in time of peace.* Our army and navy, always thought of as instrumentalities of last resort, reserved almost wholly for defense against aggression from without, have on principle been always under the control and direction of *civilians as such*, and in peace time have been recruited by voluntary enlistment. This one fact of freedom from military conscription has been the distinction of America which, more than any other thing, has attracted Europeans to our fellowship. They have fought for us and with us, but always with the American motive, embodied in the final great fact, which is America's alone:

That when *we have gone to war, our civilians armed and fighting with the devotion, courage, and effectiveness inspired only by the sense of a righteous cause, it has always been for liberty.* At the beginning, in 1776, and again in 1812, we fought England to free ourselves. In 1845, despite the motive of the Slave Power to extend the area of slavery, so far as the motive of the people in general was concerned we were fighting Mexico to free our fellows in Texas. In 1861 we fought a great civil war to maintain our free Union and to

liberate the negro slaves. In 1898 we fought Spain to free the Cubans, and notwithstanding this, our sole sin of imperialism, in the long run we shall have freed also the Filipinos. In 1917 we participated, no doubt decisively, in the struggle to free Europe from the threat of domination by the military autocracy of Germany. "To make the world safe for democracy" —that was the appeal which brought the hearts of the American people into the war. Of no other great nation can it be said that *it never went to war except for liberty.*

This is "America." This ensemble of tradition and significance is what makes native and newcomer alike want to be an American. This is what stirs our hearts when we see the Stars and Stripes. We prize these things not alone because they are ours, not alone because in their power and glory they are peculiarly, exclusively American; but still more because they are worthy to be prized, and because they promise the ultimate incarnation of the dreams of men of good will since ever man first lifted his eyes from the ground and visioned Brotherhood.

II

NEW MEMBERS AND AN OLD GAME

It would be too much to say that the average immigrant from any country visions when he leaves his home the "America" outlined in the previous chapter, or even that he perceives it when, at some time after he arrives, he files his declaration of intention to seek citizenship. Doubtless in the ordinary case he comes merely to improve his personal, social, and economic condition; to put it bluntly, to get a better job. Nevertheless, we should do ourselves and our long-standing reputation in the world a great injustice if we did not recognize and take pride in the fact that the people of all races turn their faces hither not only with hope of opportunity to better their condition, but with a stirring of soul at the thought of what they believe awaits them in a land of wider liberty. That they do not always find us living up to our boast, so far as they are concerned, is the defect not of our tradition or, in the long run, of our intention, but of our practice.

At the outset the immigrant does not think about citizenship at all. The statistics gathered by this Study show conclusively that the average alien waits more than ten years before applying for citizenship. That even if he comes as early as sixteen he waits until he is twenty-eight before he files his final petition. And the vast majority of the men come between the ages of sixteen and thirty—just at the time of life when, it

would seem, active participation in the political life of the country ought to be most appealing.

FACTORS IN IMMIGRATION

The alien does not come with any direct interest in citizenship. He comes to improve his status. And this motive has two aspects; the impulse is twofold—a push from behind and a pull from in front, sometimes one, usually both. The statistics displaying the fluctuations of what Prof. Frank J. Warne calls "The Tide of Immigration" are luminous in their reflection of this purely human fact. In order to see it stand forth, one must keep it vividly in mind that these tables of statistics are not mere exhibits of mathematical digits, but lists of human beings, inspired by motives precisely like our own. The 148,093 subjects of His Britannic Majesty—mostly Irish—who came to America in 1848 were, *each* of them, a specific individual human soul, impelled by the fact that the potato famine, or whatnot else at home, interfered with the adequacy of his meals; and attracted by the belief that he would find things better in America. The one lone Russian recorded in that year presumably represented precisely the same interplay of motives. The heavy German immigration in 1852, 1853, and 1854 was made up of men, women, and children who found conditions intolerable because of the repressions ensuing upon the revolutionary movement of '48. And so on. On the other hand, the shrinkages in the figures in various later periods, in a general way, coincide with the times of industrial depression, unemployment, etc., in this country; things were not so attractive here as to offer substantial improvement upon the situation at home.

The six sources whence we have derived the bulk of our new population are Great Britain and Ireland;

the three Scandinavian countries of Norway, Sweden, and Denmark; Germany, Austria-Hungary, Italy, and Russia—in the seventy-eight years from 1840 down to and including 1918, when immigration virtually stopped owing to the conditions created by the World War. Immigration since then has been subject to influences so different from those prevailing before, and as yet so little understood, that intelligent comparisons would be perilous.[1]

Students of immigration have usually built their generalizations upon totals of inflow, frequently overlooking the striking disparity of time and numbers among the various racial groups. Yet there is much significance in this disparity. Professor Warne, for example, in the *Annals of the American Academy of Political Science* (1920), in an analysis generally of the upward and downward curves of immigration from all countries during the century since 1820, says:

> By studying the yearly figures . . . and relating them to events of industrial or economic history, we are able to understand what is probably the most significant of all the operating forces or influences at work behind this great movement of population across the Atlantic. For illustration, the number of immigrant arrivals strikingly decreased from nearly 482,000 in 1854 to 200,877 the following year, a decrease of more than one-half. This falling off reflected the effects of the greatest financial panic ever experienced in the United States up to that time.

Well enough for a generalization based on totals; but it is not to be overlooked that at that very point the then comparatively small immigration from Italy more than doubled between 1853 and 1854, jumping from 535 to 1,263, and remained above 1,000 with the exception of one year, until 1860. Again Professor Warne:

[1] See report of Commissioner-General of Immigration, 1920.

The ensuing industrial depression was followed closely by the Civil War, and it was not until 1873 that the yearly inflow again reached as large a volume, the number being nearly 460,000.

But it was precisely during the hottest and most critical years of the Civil War that German immigration increased. It had been relatively low between 1854 and 1865 (in which latter year it was 58,153), but jumped in 1866 to 120,218, and (with the exception of 1871, when it fell to 82,554) remained high until and including 1873, when it almost touched 150,000. It would seem that something must have been going on in Germany to drive these people out against the adverse economic conditions prevailing here.

The year 1873 [continues Professor Warne] marks another panic, and a striking decrease the following years in the number of alien arrivals is again recorded.

But the Austrian, Italian, and Russian immigration, which had been relatively insignificant up to 1869 and 1870, was higher in 1870–75 than ever before, and with minor ups and downs increased more or less steadily up to the very high figures of the past two decades, which gave rise to the widely believed legend entitled, "The New Immigration."

The question of means of livelihood, of a better job, is doubtless the chief factor, but it is not the only factor. Any job at all in a free country is better, for any man worth his salt, than a far better-paid job under conditions of oppression. The man who leaves his homeland to adventure even under adverse conditions, because he cannot tolerate political tyranny, used to be regarded *per se* as fit for American citizenship. He is still fit, even though he belong to the

traditional "New Immigration"; even though of late we have tended rather to discourage the idea that personal liberty is valuable in and of itself. It is still true that along with our fame as a land where economic opportunity is to be found, the men and women of other lands are attracted by what they still believe to be our atmosphere of liberty.

POLITICS WELCOMES THE IRISH

The Irish immigration was earliest in the field, and first to profit by the hit-or-miss methods of naturalization which prevailed in the old shiftless days. They occupied socially at the outset very much the same position that the "New Immigration" has occupied during the past twenty years; but the American politician, to whose mill any kind of a biped who might vote was grist, welcomed it, and quickly taught the Irishman the methods of the game.

How solidly the Irish were installed before the Germans began to arrive in large numbers appears in Table I, showing the two streams of immigration between 1820 and 1840. Prior to 1840 there was no appreciable inflow from any other countries. It should be added that it was not until 1854, and then only for that one year, that the German immigration overtook the Irish. It did not again equal it until 1867.

THEY ALWAYS HAVE BEEN DEMOCRATS

The traditional fidelity of the Irish to the Democratic party began forthwith. The elements in the population which were Whigs, and afterward became Republicans tended, on the whole, to be the more prosperous folk of the community; also they were largely of the Protestant faith. Very early in our political

history, therefore, there came to be, to some extent, a division in which both social standing and religion played a part. Most of the Irish were poor, and nearly all of them were Roman Catholics. The Democratic

TABLE I

IMMIGRATION FROM IRELAND AND GERMANY EACH YEAR FROM 1820 TO 1840

YEAR	IRELAND	GERMANY
1820	3,614	968
1821	1,518	383
1822	2,267	148
1823	1,908	183
1824	2,345	230
1825	4,888	450
1826	5,408	511
1827	9,766	432
1828	12,488	1,851
1829	7,415	597
1830	2,721	1,976
1831	5,772	2,413
1832	12,436	10,194
1833	8,648	6,988
1834	24,474	17,686
1835	20,927	8,311
1836	30,578	20,707
1837	28,508	23,740
1838	12,645	11,683
1839	23,963	21,028
1840	39,430	29,704

party was rather the party of the poor and the foreign born, and when the great influx of Roman Catholic Irish injected also the religious issue, it was only natural that a kind of racial allegiance should attach the Irish to the Democratic party. The Know-Nothing and Native American agitations of the middle of the

last century deepened the rift, and confirmed the Irish in their political faith.

Gustavus Myers says, in his *History of Tammany Hall:* [1]

About the year 1840 . . . Tammany began to be ruled from the bottom of the social stratum. . . . The policy of encouraging foreigners, at first mildly started in 1823, was now developed into a system. The Whigs antagonized the entrance of foreign-born citizens into politics, and the Native American Party was organized expressly to bar them almost entirely from the enjoyment of political rights. The immigrant had no place to turn but Tammany Hall. In part to assure itself this vote, the organization opened a bureau, a modest beginning of what became a colossal department. An office established in the Wigwam, to which specially paid agents or organization runners brought the immigrant, drilled into him the advantages of joining Tammany, and furnished him the means and legal machinery needed to take out his naturalization papers. . . . Tammany took the immigrant in charge, cared for him, made him feel that he was a human being with distinct political rights, and converted him into a citizen. How sagacious this was, each year revealed. Immigration soon poured in heavily, and there came a time when the foreign vote outnumbered that of the native-born citizens.

It is true, but irrelevant, that in an earlier day Tammany had been as anti-foreign as anybody—originally it was decidedly aristocratic in tone. Myers recites how, on the night of April 24, 1817, two hundred Irishmen marched to the Wigwam "to impress upon the Committee the wisdom of nominating (for Congress) Thomas Addis Emmett, as well as other Irish Catholics on the Tammany ticket in the future."

All this had long since become ancient history by 1840. Long before that time the Irish devotion to

[1] Gustavus Myers, *History of Tammany Hall*, p. 128 *et seq.*

the Democratic party in general, and to Tammany Hall in particular, had become deeply rooted.

EARLY GERMANS BECAME REPUBLICANS

The Germans, who, as has been shown, formed the second great wave in the "tide of immigration," began to come in formidable numbers about 1836, passing the 30,000 mark in 1845. While they were, on the whole, better educated and possibly more intelligent than the Irish, they were handicapped, as the Irish were not, by difference of language; so that for the practical purposes of the native American politician they were equally ignorant. And the mass of the immigrants of both races were peasants without experience in relation to political participation.

Very many of the Germans, however, had fled from the repressions at home preceding, accompanying, and following the revolutionary movements about 1848; they were to a great extent Protestants, and they were naturally opposed to slavery—though this is not to say that the Irish ever favored it. Generally speaking, Germans reacted favorably to the Republican party.

Both races took American politics as they found it. Let it not be supposed that corruption was the exclusive invention or hall mark of Tammany Hall! Even in England, at this time, politics was a dirty business. The Whigs did their best to beat Tammany at the game in which it had become expert. Myers says:[1]

> In the fall election of 1838 the Whig frauds were enormous and indisputable. The Whigs raised large sums of money, which were handed to ward workers for the procuring of votes. About two hundred roughs were brought from Philadelphia, in different divisions, each man receiving $22. . . . Ex-convicts distributed Whig tickets and busily auctioneered.

[1] Gustavus Myers, *History of Tammany Hall*, p. 118.

The cabins of all the vessels along the wharves were ransacked, and every man, whether or not a citizen or resident of New York, who could be wheedled into voting a Whig ballot, was rushed to the polls and his vote smuggled in.

This was the election which made William H. Seward Governor of the state of New York!

EFFECTS OF THE GOLD CRAZE

The whole situation was intensified during the years when corruption reached its greatest heights by the conditions ensuing upon the discovery of gold in California. The port of New York welcomed ships from the west coast bringing gold, and ships from across the Atlantic bringing immigrants. The "bulge" in the curve of immigration from Great Britain and Ireland, Germany, and Scandinavia in the period 1849–54 undoubtedly represents preponderantly the reaction abroad to the tales of gold to be found on the street corners of America.

And the immigrant stepped into an atmosphere of corruption in every field—including politics. The whole country was more or less money mad. The effect of the gold craze, as Myers (page 154) says, "was a still further lowering of the public tone; standards were generally lost sight of, and all means of 'getting ahead' came to be considered legitimate. Politics, trafficking in nominations and political influence, found it a most auspicious time."

VAST NATURALIZATION FRAUDS

It is hard to realize now the public attitude of those old days on the subject of naturalization. There was a fabulous amount of virgin territory to be opened; new communities needed population, and especially muscle labor; lavish inducements, including the right to vote,

were held out to anything in the form of a man who could be brought to help in the task. It was many years before citizenship came to be regarded as a precious thing, to be guarded with scrupulous vigilance. And as both of the great political parties were guilty of crimes against the ballot box, it was taken for granted that they were inevitable in politics.

The vexatious technicalities which now seem so unjust to many an applicant for citizenship are, after all, only reaction at the other extreme to the incredible laxity which characterized the process in the early years. The population of what was then New York City was only 515,547 in 1850; 813,669 in 1860; and 942,292 in 1870; but in the eight years, 1860–67, inclusive, more than 67,000 aliens were naturalized in that city alone. The naturalizations in New York City in each year from 1856 to 1867, inclusive, in only two courts—the Superior Court and the Court of Common Pleas—an average of more than 9,000 a year is shown in the following table:

TABLE II

NUMBER OF ALIENS NATURALIZED EACH YEAR FROM 1856 TO 1867 IN TWO COURTS IN NEW YORK CITY[1]

YEAR	NUMBER
1856 (Presidential election)	16,493
1857	8,991
1858	6,769
1859	7,636
1860 (Presidential election)	13,556
1861	3,903
1862	2,414
1863	2,633
1864 (Presidential election)	12,171
1865	7,428
1866	13,023
1867	15,476

[1] John I. Davenport, *The Wig and the Jimmy*, p. 12.

These figures are taken from a curious pamphlet, published in 1869 by John I. Davenport, who was United States Commissioner and Chief Supervisor of Elections for the Southern District of New York, under the cryptic title, *The Wig and the Jimmy*, which tells in detail the story of the debauching of naturalization by these two courts. The year 1868, however, saw the scandal reach unprecedented heights. Says Mr. Davenport:[1]

. . . Notwithstanding that the yearly average of naturalizations had been but about 9,000; that the greatest number naturalized in a single year never reached 16,500; that three years had elapsed since the close of the war in which 35,927 aliens had been made citizens, a yearly average of 11,975, or an excess of 3,000 per year above the annual average for twelve years; that the addition of such excess to the diminished numbers naturalized in 1862, 1863, and 1864 would preserve the ratio, and account for those who from fear of being drafted had refrained from applying during those years of the war; that the rebellion had reduced the alien population of New York City, many of whom enlisted, were killed, died from disease, or after the war found homes elsewhere; and, finally, that the yearly average of emigration (*sic*) from and including 1847 to 1860—a period of 13 years—had been 197,435, while for the four years from 1860 to 1863 inclusive —and none who arrived subsequently could be legally naturalized in 1868—the yearly average of alien arrivals had been but 100,962, or an annual loss of one-half, yet orders were early in September passed along the Democratic line to prepare on a gigantic scale for the naturalization of aliens during the coming month. The Supreme Court also determined for the first time to engage in the work of making citizens. In accordance with this known determination, there were printed for the use of the courts . . . a total of 30,000 applications and 30,000 certificates for the Superior Court, and 75,000 applications and 39,000 certificates for the amateur court [Supreme].

[1] John I. Davenport, *The Wig and the Jimmy*, pp. 12–13.

The Court of Common Pleas, which save for a year or two previous had done the larger share of the work of naturalization, did but little in 1868, its total for the year being 3,145, of which 1,645 were in October. Justice requires the further statement that there was no evidence whatever of any fraud in this court, although all its judges were elected as Democrats, while proof was abundant that the duty entrusted to it of making citizens of the United States was discharged throughout with marked propriety and dignity.

In the Supreme and Superior Courts only were frauds proven. To what extent we will now consider. The following table was sworn to as being the daily number of applications for naturalization on file in the Supreme Court Clerk's office for 1868:

TABLE III

APPLICANTS FOR NATURALIZATION IN SUPREME COURT, NEW YORK CITY, IN OCTOBER, 1868

October	6	6
"	7	8
"	8	379
"	9	668
"	10	717
"	12	723
"	13	901
"	14	523
"	15	857
"	16	721
"	17	633
"	19	955
"	20	944
"	21	773
"	22	675
"	23	587
Total		10,070

The significance of these great totals of applications for naturalization within a few days before election

appears in Mr. Davenport's summary of the behavior of the judges: [1]

But the essential aid rendered by these judges need not be further detailed. It was mainly comprised of one or more of the following derelictions of duty:

I. Hasty and incomplete examination of applicants and witnesses.

II. Total neglect at times to examine the one class or the other.

III. Through negligence, imposition, which might easily have been guarded against, or direct complicity, the issue of certificates in the names of persons who never appeared in Court, applied therefor, produced a witness, or took an oath.

IV. Similar issue of certificates to applicants, persons of assumed or fictitious names and others, upon the oath of residence and moral character of persons of assumed and fictitious names, or of known criminals and persons of immoral character.

V. Similar issue of certificates upon "minor applications" when the persons to whom such certificates issued were known, or could readily have been ascertained to be, unentitled thereto on such applications.

VI. Total neglect or refusal to commit known disreputable persons and others whose business it was for pecuniary or other consideration to act as witnesses, and who in such capacity repeatedly appeared before them.

VII. The conducting of naturalization proceedings in a secret manner, by causing citizens and others to be denied admission to the court-room, or ejected therefrom when observed.

The Judiciary Committee of the New York State Assembly, in a report upon the first notorious election frauds made to that House of the state legislature thirty years before, or on April 6, 1838, already had registered the fact that this was no post-war

[1] John I. Davenport, *The Wig and the Jimmy*, pp. 17–18.

state of affairs, and depicted the situation of which the frauds of 1868 were only one year's fruit:

> Men vote who do not reside in the ward, often not in the state; aliens are frequently brought to the polls and their vote imposed upon the inspectors, although many of them have not been a week in the country; and voters are not infrequently taken from poll to poll, voting in three or four different wards at the same election. These are the frauds constantly practiced at our elections, to the disgrace of the state, and to the manifest wrong of the country.

It was partly the sense of the great public danger lying in such conditions, partly the growing anti-foreign feeling, and altogether an improving public morality, that beginning about 1870 and increasing as the years passed, brought about the cleansing of public elections and the reform embodied in the naturalization law of 1906 which has totally abolished the situation into which the immigrants of the mid-century and earlier stepped as into a swamp. Still survives in some quarters the notion that the alien is hurried from the ship to the ballot box, and that he pours therein some corrupting influence brought with him from abroad. The latter never was true; he has accepted and taken advantage of the situation which we ourselves created and suffered for generations to exist. The former was true during three-quarters of a century, but it is true no longer, and has not been true for nearly two decades.

FIRST CHOICE IN POLITICS

Bear it in mind that the chief motive of the newcomer is the same as that which usually leads men to go anywhere—the desire to "better himself." It is notable that a very large number of immigrants arrive with the notion that the Republican party is the "party

of prosperity," of the "full dinner pail," high wages, and the other advantages which have been the widely advertised slogans of that party. Without passing upon the question of the truth of these slogans, one may note that what actually happens is that the immigrant's real search is for that connection, political or industrial, which involves employment and other advantages of a material kind. As soon as the conditions permit, he joins the penumbra of the political organization which has jobs to distribute, which controls public contracts and the wages that go with them. That means Tammany and the Democratic party in New York City; in Philadelphia it means the Republican organization, which in its day has followed and in some respects surpassed Tammany in all the ways of political corruption and machinism. In other cities it has been to this party or that, as the dominant color shifted, that the immigrant has swung.

As long as the naturalization process was the sport of corrupt politics, the political organizations gave early attention to the alien. With the institution of the present stringent law and practice, however, and also with the vast magnitude of the flood—swamping all the machinery which had been devised to absorb the immigrants—the politicians up to a recent time ceased to pay any attention to them. One of the results of this has been a considerable increase in the lapse of time between the arrival of the immigrant and his first steps in the direction of citizenship. One of the most enterprising of the younger leaders of Tammany Hall said to the present writer some months ago:

> We don't pay any attention to the alien until he comes to us for some favor—a job, a peddling license, some help when his boy is arrested, or assistance in getting out his naturalization papers. There's too many of 'em. When they do come, we do what we can for them, and naturally

we say: "Well, how about it? Are you going to see the Democratic organization only when you want something? Why aren't you a citizen? Get yourself naturalized and then come along with us."

All of which is very natural and human, and a good illustration of the way in which the politician gets his hold upon the individual voter—newcomer or native.

The war created a new interest in the alien, brought new pressure upon him to become a citizen. Private concerns demanded at least "first papers" as a condition for employment; labor organizations intensified their insistence upon citizenship, or at least declaration of intention, as a prerequisite to membership; laws were passed in many states increasing the disabilities of aliens. And the political organizations generally have returned, but in a far better spirit, to the former search for voters among the foreign born; creating committees and bureaus to assist the alien in getting naturalization, and resuming the old "hand-picking" methods of getting the foreign born into active participation.

Little attention has been paid to the extent to which the politicians use private jobs as a part of their patronage. Not only the petty employments in saloons and even brothels have been at the disposal of the local leaders; but places for unskilled labor with street-railroad corporations and other public utilities needing the franchises and privileges in the public streets, have been utilized as the coin-current of local political traffic. Not infrequently a merchant finds that the stringency of the enforcement of ordinances regarding his buildings, blocking sidewalks with his merchandise, etc., is considerably mitigated after he has acted upon the suggestion of a district leader as to the employment of some person as truck hand or watchman. And the writer well remembers one occasion, many

years ago in Chicago, when the street-railroad companies were keenly interested in an aldermanic election, wherein the polling places in certain doubtful wards were blocked by long lines of obviously foreign-born laborers, few if any of them voters, who did not attempt to vote, but monopolized the line for blocks, effectively slowing down the voting so as to prevent the real voters from getting to the polls at all!

THE POLITICIAN CLOSE TO HUMANITY

The secret of the whole business lies in the fact that political machines, and the political bosses of all sizes and grades who make up their staffs, are powerful and long-lived in just the measure to which they grow out of and identify their activities with the rank and file of the community—clear down to the bottom. The vote of a new-made citizen born in Galicia or Syria or Portugal is just as good for his purpose as that of a Son of the American Revolution—vastly more so if (as sometimes happens) the new voter will follow his "advice" and the old one will not! Furthermore, their vitality, especially in the poorer sections, is commensurate with the *constancy* of their activities; that is, their practical utility to the people all the time, for all purposes. As William Bennet Munro says:[1]

> The work which the party organizations lay out to do, and in large measure actually perform, is extensive and exacting. It does not, as in Europe, all fall within the few weeks which precede an election; it is spread over the whole year.

And he goes on to describe, aptly, why this work is "spread over the whole year," and how it comes about that the boss, little or big, acquires so great an influ-

[1] William Bennet Munro, *Government of American Cities*, Macmillan, 1912, p. 167 *et seq.*

ence in his bailiwick. What he says applies most aptly to the so-called "poorer districts," where the foreign-born voters live in the greatest numbers:

It seems usually to be forgotten that the evolution of the boss follows the law of natural selection, which in this case secures the survival of the man who is most resourceful in using to full advantage the conditions that he finds about him. To gain even a ward leadership and to hold this post requires industry, perseverance, and no end of shrewd tactfulness. He must not be content with doing the work that comes to him; he must look for things to do. As his work consists mainly in doing favors for voters, he must inspire requests as well as grant them. Therefore he encourages voters to come to him for help when they are out of work, or in any other sort of trouble. When a voter is arrested, the ward or district leader will lend his services to secure bail or to provide counsel, or will arrange to have the offender's fine paid for him. Then there are the day-to-day favors which the local boss stands ready to do for all who come to him, provided they are voters or can influence voters.

Picturing the boss thus as the district philanthropist, the description goes on to enlarge upon the more sinister uses to which the power thus gained is devoted, in punishing disloyalty. And this is even more effective upon those relatively unfamiliar with the niceties, the ins-and-outs, of public administration:

If a word from the boss will get one man employment, a word will also, very often, procure another employee's dismissal. At a hint from him, the small shopkeeper, the peddler, the pawnbroker, the hackman, can be worried daily by the police or by the health and sanitary officials of the city on baseless or imaginary pretexts—tactics in which, as the history of almost every larger city shows, the machinery is unrelenting and vindictive.

The affirmative side of the district leader's activity is the one that makes most impression upon the neigh-

borhood. Almost every sort of reformer, who would bring to the foreign-speaking district a sense of the need for voting for a different sort of alderman, for example, lives in another part of town, represents another stratum of society, comes into no sort of natural touch with his foreign-born fellow citizen. But the latter knows the district leader—last winter he got a job, a little coal, a bed in a hospital for his wife; his boy was let off by the police after a piece of reckless mischief; or there was some other human favor; and all the return he is asked to make—cheap enough, to be sure—is that on election day he shall vote as the district leader who helped him in his need asks him to vote. What difference does it make to him? Show him a difference, convince him that something real, something that he can understand, is involved, and he will respond. But nobody shows him. "Uptown," whence comes the reformer whom he does not know, and whose motives he has no substantial reason to respect, does not understand his life or its problems; does not even live in the ward. The district leader does. He is his neighbor, and he sees him almost every day.

Then, too, the political organization meets him on the social side, provides a club, which in the intervals between elections gives entertainments, has pool tables, provides cigars; used to provide liquor. A spirit of fellowship grows up; the new foreign-born voter gains acquaintance at the natural point of contact between his daily life and the politics into which he is being introduced. The result is obvious.

POLITICAL ASPECTS OF SOCIAL CLUBS

The spontaneous groups of foreign-speaking people of nearly every race, which have sprung up everywhere in response to the varied needs of the strangers within

our gates—social, insurance, musical, athletic, etc.—necessarily and naturally take on political aspects. As President Wilson said once, "politics is human nature"; there is nothing sinister about this fact. It is wholesome that groups of folk, coming together spontaneously about a nucleus of common interest, should consider together and act together, in regard to such public matters as they think concern them. The only thing that is really dangerous in a republic is stolid indifference; it is on *that* that corruption and injustice feed.

In the matter of helping their fellow countrymen to secure naturalization, these organizations perform a service of value and importance both to the alien and to the country. Many of these racial societies devote much attention to old-country politics, and form nests of propaganda and even more concrete activity whose effects are felt not so much in this country as "back home." And when, as in the case of Ireland, Poland, Italy, and so on, the issues of foreign politics are made the bone of contention in American political contests, these German-American, Italian-American, Polish-American societies may become exceedingly active in our own affairs, and project lines of division which may greatly complicate the politician's task, and sometimes stand him upon his head: [1]

It is not too much to say that the power of Tammany Hall in politics, and that of every other important political organization in Philadelphia, Chicago, San Francisco, Boston, or elsewhere—including those dominant in rural districts—grows out of intimate association with the people *in their daily lives*, and could grow out of nothing else. "Power and patronage," says

[1] These activities are well summarized by John Daniels in his Americanization Study volume entitled *America via the Neighborhood*, New York, Harper & Brothers, 1920, p. 383 *et seq.*

Professor Munro, "provide a cycle hard to break." True; but "power and patronage" is only a phrase. Behind it lies the fact that the politician gains and holds his power because he deserves it; through his organization of the machinery, always "on the job," through which human beings, with wives and children to feed, clothe and shelter, get the means to do it. The small, unskilled job in the employ of the city, or of business which can be helped or harmed by political or official action, is the coin-current through which the politician controls—so far as he does control—the rank and file of the foreign-born voters. This, and the small and larger personal human favors that he is in a position to render.

Here, with the first economic "toe-hold" that the immigrant gets in America, begins his introduction to our life and to our politics.

POLITICS A GREAT AMERICANIZING FORCE

Politics, local politics—the ordinary interest of the ordinary citizen; the day's work and the day's life, are great Americanizing forces, and they are working every minute. The immigrant generally, especially he of the so-called "new immigration," comes here without much if any experience in public affairs. All the life of all the generations from which he comes has been passed without real participation; government in the old country went on over his head, in a rarefied stratum which he never entered and of which he knew little. That is one reason why, on the average, it takes more than ten years for him to come to the point of asking for citizenship.

Of late some of the very people who declared that the immigrant comes here with only "sordid motives" have favored pressure upon him to become a citizen

by means of refusing him employment unless he does become one. The great increase in declarations of intention during the past three or four years has been due almost entirely to the restrictions adopted formally or informally all over the country confining employment, even in privately owned industries, to those who have at least taken out "first papers." Even in the Bureau of Naturalization there was for a time more than a tendency to pursue this policy of forcing citizenship upon aliens. It was abandoned because no government can kidnap the subjects or citizens of another without getting into difficulty. There is still a good deal of confusion of thought about this matter.

The importance of it lies in the fact—obvious to any right thought about it—that we want for our new citizens *only those who come of their own accord and free will.* We want, moreover, only those who are right-minded. The effort to stamp out the use of every mother tongue but one, to obliterate all affection for the old home in Scandinavia, Bavaria, Dalmatia, Bohemia, not only is futile; we do not want for our fellow citizens the kind of people who can turn their back without a qualm upon the memories of childhood.

> Breathes there the man with soul so dead
> Who never to himself hath said,
> This is my own, my native land!
> Whose heart hath ne'er within him burned
> As home his footsteps he hath turned
> From wandering on a foreign strand?

What sort of an American could be made out of one able in any circumstances—worst of all under repressive compulsion—to turn his back upon the tongue, the traditions, and the associations of his fathers? We are not such ourselves, and in our sane minds we do not want those who join us to be such. The process of

real assimilation is a process slow in its nature, reaching not forms and words, but sentiments of the highest and most subtle kind.

You cannot beat love of country into any worthwhile person with a club—or with a law.

III

CITIZENSHIP: UNDER THIS FLAG, AND OTHERS

THERE is, indeed, such a thing as a "man without a country," and it is only a few years since the United States, even if inadvertently, legislated so that there may easily be now a woman without one. But the laws of nations make no provisions for the existence voluntarily of anyone who may regard himself as "a citizen of the world." With the vanishment of *terra incognita* in the final achievement of human exploration at the two poles of the earth, virtually every foot of the surface of the globe has come, at least constructively, under the dominion of some government. And with it every man, woman, and child on earth has acquired or had thrust upon him a legal nationality of some sort, from which, generally speaking, he can escape only by choosing or having thrust upon him another—however feeble or tenuous its grasp, however slight or contemptuous his perception and recognition of it.

The Great War emphatically registered this fact, with its ruthless inclusion of friend, neutral, and foe within some category of practicable citizenship. In the United States the Selective Service Act, and other legislation as well—to say nothing of the extra-legal practices indulged in under cover of the popular state of mind—permitted no human being to regard himself as immune to effective classification under some sovereignty. The "conscientious objector," the "phil-

osophical anarchist," and every sort of philosopher, however much he previously may have imagined himself free to abjure allegiance to government, found that his property, his food, his sons, his own very personal flesh-and-blood, were, after all, not his own, but were subject to conscription by the state. However much his spirit might be of fellowship with the saints of his cult or religion, in all material respects he must render unto Cæsar the things that Cæsar said were Cæsar's.

From the most primitive times this has been so, even if in the America of the happy-go-lucky times of peace it has been lightly regarded or scarcely realized at all. The "gang spirit," under the sway of which men always have held loyalty to the local clan to be one of the chief of obligatory virtues, is of the essence and fabric of group life, and is the tap-root of patriotism. It embodies an allegiance both to blood and to locality. Through the warp of all political history are woven two kindred threads representing these two allegiances; sometimes one, sometimes the other—in later development something of both. The lawyers speak of them as the *Jus Sanguinis*, the Law of the Blood, and the *Jus Solis*, the Law of the Soil, and distinguish between them; but both represent the claim of the community upon the loyalty and, if need be, the sacrifice and bodily service of the individual.

A classic illustration of the deeply embedded feeling that man cannot separate himself from the virtues, the sins, and the limitations of his clan, his country, is the tragedy in the valley of Achor, related in the Old Testament Book of Joshua,[1] wherein it was held that the sin of Achan the son of Zerah was *ipso facto* the sin of all Israel. And for the offense of one man,

[1] Joshua vi, vii.

. . . Joshua, and all Israel with him, took Achan the son of Zerah, and the silver, and the garment, and the wedge of gold, and his sons, and his daughters, and his oxen, and his asses, and his sheep, and his tent, and all that he had; . . . and all Israel stoned him with stones, and burned them with fire, after they had stoned them with stones. [1]

This, with a vengeance, was a dramatization of the *Jus Sanguinis*, the Law of the Blood, by virtue of which an individual acquires nationality and civic responsibility through the blood of his ancestry, regardless of the place of his birth!

ROOTS OF POLITICAL SOCIETY

The principle was a natural consequence upon the nomadic life of families and tribes, of primitive groups wandering often in strange and even hostile territory, to whom in absence of fixed abode and boundaries locality was of little importance, but tribal solidarity and unity of purpose and allegiance were vital to defense, to group survival. The family, and after it the clan or group of blood-related families, were the beginnings of political society.

Throughout ancient times the Law of the Blood persisted; the law of citizenship in early Greece and Rome was based upon the idea of family inheritance. But with the dissolution of the Roman Empire and the rise of feudalism, the *Jus Sanguinis* gradually gave way to a standard of citizenship based upon locality —to *Jus Solis*, under which a child became *ipso facto* a citizen or subject of the jurisdiction within which he was born, more or less regardless of the nationality or allegiance of his parents. This was a natural concomitant of feudalism; as the conflicts between military chieftains and groups divided the land into relatively

[1] Joshua vii: 24, 25.

definite jurisdictions, and the tenure of territory and the stability of boundaries and peace in the realm depended almost wholly upon military strength, it was to the interest of both lord and vassal to maintain the largest possible forces for defense, and conservation of population depended chiefly upon birth. Even to the peasant subject, maintenance of almost any *status quo* was comparatively worth while for the sake of the peaceful enjoyment of such home and happiness as were his lot.

INFLUENCE OF EMIGRATION TO AMERICA

Beginning with the period immediately following the French Revolution—which, it should be remembered, was only the most violent and impressive of the upheavals of that general epoch in many parts of Europe —a distinct reaction toward the *Jus Sanguinis* appeared. This is variously accounted for; but most historians attribute it to a desire on the part of the older countries of Europe to offset the serious loss of subjects threatened by emigration to America, which had begun to tempt adventurous souls by the opportunity for individual liberty and initiative and escape from the tyrannies of feudalism and religious autocracy.

Whatever the reason, the nineteenth century witnessed on the one hand the return of the nations of the Old World to the Law of the Blood, and on the other the development in the New World of the Law of the Soil.

This is a theoretical statement. In point of fact, in the designation of the mode of acquisition or loss of citizenship, no two of the nations of the world are exactly in accord; the most hopeless confusion exists; but with a constant and increasing effort to harmonize the procedure, and now with a good hope that in the

coming days some measure of uniformity may become practicable. In matters of secondary importance, such as the international postal regulations, telegraphic communication and sanitary co-operation, it has been virtually impossible thus far to bring about a common policy. How much more difficult must it be to harmonize the principles of citizenship, involving, as that does, intricate historical and political considerations—immensely complicated by the shifts of boundary due to the war—and the very bases of national existence in the control by the community of the allegiance and the industrial and military service of subjects and citizens?

THE RIGHT TO EMIGRATE

Nevertheless, all countries have in some measure practically recognized the right of the human individual to emigrate, though there have persisted laws and decrees expressing the attempt to retain legal jurisdiction and allegiance. The strength of these efforts depends largely upon whether the basic theory of citizenship has its roots in the *Jus Sanguinis* or the *Jus Solis*. For it may be said generally that the nations of the world are divided roughly in this regard by their adherence to the one theory or the other, though we look almost in vain for a pure example of either; in some countries there are interwoven lines of both, and in many it is almost impossible to determine which prevails. For practical purposes, and subject to such modifications as may be made in the era of readjustment upon which the World War has launched us, we may depend upon the following general classification:

The Jus Sanguinis dominates in Austria, China, Finland, France, Germany, Hungary, Japan, Monaco, Norway, Persia, Rumania, Serbia.

The Jus Solis prevails in the canton of Geneva, Switzerland, and in Argentina.

The Jus Sanguinis combined with the Jus Solis is found in Belgium, Greece, Italy, Luxemburg, Russia, Spain, Turkey.

The Jus Solis modified by the Jus Sanguinis prevails in most of the states of the Americas, and in Bulgaria, Denmark, Egypt, Great Britain, Portugal, Sweden, Switzerland.

THE SUBJECT *vs.* THE ACTIVE MEMBER

In thought and writing on the subject of citizenship, two concepts of the word "citizen" persist, and usually are treated as to such an extent interchangeable as to produce a fatal confusion. For they are not interchangeable. They differ in essence, and it is of the utmost importance that they should be clearly distinguished. In the distinction lies all the difference between Liberty and Autocracy. Something, if not all, of this difference lies in the distinction between the Law of the Blood and the Law of the Soil.

The first and commonest of these concepts is that which must have colored the thought of the feudal lord as he looked upon "his" people, belonging to him because they belonged to the soil which his sword controlled. This concept contemplates the citizen or subject as invested with the character of a national body politic, bound by an obligatory allegiance to it and its political institutions because he is there, born there, or led there by the circumstances of his life.

The other concept, which we like to think constitutes the basis of what we call "America," for it is of the essence of anything worthy of the name of Democracy, contemplates the citizen as a *participant* in the fact of sovereignty, one who owns an undivided and indi-

visible share in the community title, and whose right and duty it is to take a definite part and acknowledge a definite responsibility in the business of government. In this study of naturalization and political life of the foreign-born citizen it is with this second concept that we have most to do.

ESSENTIALS OF CITIZENSHIP: ANCIENT—AND AMERICAN

What, then, are the essentials of that citizenship to which an alien aspires and addresses himself when he seeks to become an active member in the American community whose members are something more than mere chattels of the sovereign?

"There is nothing that more characterizes a complete citizen," says Aristotle, "than having a share in the judicial and executive part of the government. . . . He, and he only, is a citizen who enjoys a due share in the government of that community of which he is a member." But Aristotle was speaking from the point of view of a community in which not all individuals there resident were the sort of citizens he was talking about. According to that great Greek the best-ordered states did not include in the term "citizen" mechanics or others who worked for wages, and utterly unmentionable in any such connection was the great mass of slaves who had virtually no human rights at all. Aristotle's "citizen" was one of the relatively few endowed with political rights and responsibilities. In the Greek city-states and in the early Roman Republic, citizenship was at first restricted to certain of the older houses (*phylos*, *gentes*), but with the development of economic intercourse the few dominant families gradually lost their exclusive power, and other free inhabitants were included in participation in the affairs of state.

In Rome the right of citizenship was conferred at first upon the leading families in allied cities, and later upon whole communities. By the year 100 B.C., nearly all Italians were citizens. But the Empire brought about great restrictions in this matter; a gradual narrowing of the limitations took place; along with a great extension of the name "citizen" came a great decrease in the actual participation of the "citizen" in the business of government; so that by the time the Emperor Caracalla was extending something called "citizenship" to all Roman subjects, he actually was doing little more than to make certain intolerable taxes universal.

So the old Greek and Roman idea of "citizenship" will not answer our purpose. We have, however imperfect our realization of the fact, something quite different to offer, something vastly greater to demand.

In the modern world citizenship has come to mean membership in a political community. It involves the status of an individual with reference to a particular state. And that status is determined by the laws of the individual states, for everywhere it is stoutly maintained that the right to determine how and when a person may become and remain a citizen is one of the first prerogatives of sovereignty. In a number of recent works on citizenship the question has been raised whether the bond of citizenship is by nature contractual. The affirmative is held by Prof. Andrew Weiss of the University of Paris; he declares it to be "generally recognized that the bond of nationality is a contractual one; and that the bond uniting to the state each of its citizens is formed by an agreement of their wills, express or implied." This view is rejected as unsound by various English and American publicists.[1]

[1] F. T. Piggott, *Nationality*, London, 1906, and E. M. Borchard, *Diplomatic Protection of Citizens Abroad*, New York, 1916.

These writers assert that whatever may be the theory of the origin of the state, the fact is that the relation of the citizen to the state is a relation *sui generis*, and that the admission of a person to membership in a state is an act of sovereignty. The law of the state is supreme.

The reasonable fact is that there is an element of truth in both of these contentions. The great increase in facilities for international communication and travel has made emigration a common thing, and the law in practice, whatever it may be in letter, has recognized in varying ways the fact that the human individual can, does abjure his "contract" with the state where he has lived, and seek admission to one which for this reason and that he thinks likely to be more salubrious for the pursuit of what he regards as his happiness. For, after all is said, the fact remains that men stay here or go there in that pursuit. A crowd goes home when it begins to rain not because the crowd is getting wet, but because each individual of it, in his separate personal eachness, so to speak, has water running down his neck and desires to find a place where he can get dry. Waves of emigration represent countless individuals each of whom believes that elsewhere, or in some particular place, he can be more comfortable in the practices and activities which constitute his life by day and by night, and maybe find a broader and richer field in which to grow and raise his family.

The offer of just this kind of opportunity has induced many hundreds of thousands of human beings from all parts of the earth to dissolve the bond, contractual or what you will, between themselves and the land of their birth or previous habitation, and come to these shores. We have invited them, and devised elaborate machinery by which to welcome them into our fellowship. Not only has the invitation been definitely ex-

pressed; we have opened wide gates in our bars, and placed premiums upon entrance therein.

BASES OF AMERICAN CITIZENSHIP

The bases of citizenship in this country are two, established in the Constitution of the United States and the legislation and decisions explanatory thereof:

I. Every person, of whatever race descended, born in the United States and subject to its jurisdiction, including children of American fathers born abroad, is *ipso facto* a citizen of the United States.

II. All other persons eligible for citizenship in the United States must acquire that citizenship through the legal process known as Naturalization.

It was in the great case of Wong Kim Ark[1] that the Supreme Court, in 1897, established the right of *citizenship by birth on this soil, regardless of race or descent.* The question in this case involved a child born in California, of Chinese parents who, because of their race, could not themselves become citizens. In this decision, a classic in the law of American citizenship, the court set forth the following fundamental principles to be observed in determining citizenship by birth in the United States:

1. The Constitution of the United States must be interpreted in the light of the Common Law, under which every child born in England, even though of alien parents, was a natural-born citizen.

2. The qualifying words in the Fourteenth Amendment, "and subject to the jurisdiction thereof," exclude two classes of persons—children born of alien enemies in hostile occupation, and children of diplomatic representatives of a foreign state. (The latter, from

[1] United States *vs.* Wong Kim Ark, 169 U. S., 649.

the earliest times, both under the laws of England and in decisions of American courts, had been recognized to be exceptions to the fundamental rule of citizenship by birth within the national jurisdiction.)

The Fourteenth Amendment to the Constitution,[1] adopted in 1868, incorporated no new rule or principle into American law. Neither did the Civil Rights Act, passed in 1866 as a Reconstruction measure, although it was the first statutory definition in the United States of citizenship by birth. That Act says:

> All persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are citizens of the United States and of the States where they reside.

COMMON-LAW DEFINITION TAKEN FOR GRANTED

The English Common Law, then, is the original source of our definition. That definition, taken over with the formation of the American Republic out of the English colonies, was so familiar, so much a part of the nature of things political, that nobody thought it necessary to formulate it—or a new one.

By the Common Law of England, every person born within the dominions of the Crown, no matter whether of English or of foreign parents—and in the latter case whether the parents were settled or merely temporarily sojourning in the country, was an English subject; save only children of foreign

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[1] Fourteenth Amendment—1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

ambassadors . . . or a child born in hostile occupation of any part of the territories of England.[1]

When the Constitution of the United States was made, a "citizenship of the United States" was recognized but nowhere defined, and it was nearly a century before it found specific statutory expression in the Civil Rights Act and the Fourteenth Amendment. Meanwhile, not only the courts, but the Executive, invariably recognized the validity of the Common Law Rule, and the Wong Kim Ark decision of 1897 merely restated it once for all.[2]

CONCERNING AMERICANS BORN ABROAD

There are certain elaborations and modifications of the two great principles mentioned above, serving both to confirm and circumscribe them. Children born abroad of American citizens in the foreign service of the United States government are citizens of the United States, and like citizenship comes by birth to children "born out of the limits and jurisdiction, whose fathers were or may be at the time of their birth citizens thereof." [3] But the father must have been a citizen at the time of the birth of the child, and must have resided actually in the United States; that is, it will not do for him merely to have acquired citizenship abroad by the fact of the citizenship of his father without ever having resided in this country.

If the father loses his citizenship after the birth

[1] Cockburn, *Nationality*, p. 7.

[2] See Murray *vs.* The Charming Betsey, 2 Cranch, 64; Inglis *vs.* Sailors' Snug Harbor, 3 Pet, 99; M'Creery *vs.* Somerville, 9 Wheat, 354; see also Instruction of Marcy, Secretary of State, to Mason (1854), quoted in *Moor's Digest of International Law*, iii, p. 276.

[3] Revised Statutes, sec. 1993. See House Document 326, Fifty-ninth Congress, Second Session.

of the child, it has been held that such child upon attaining his majority may revive his right to citizenship by establishing residence here. And by virtue of legislation enacted in 1907, these foreign-born children of American parentage are required, upon reaching the age of eighteen, to register their intention to become residents, and to remain citizens, of the United States, and upon attaining majority to take the Oath of Allegiance to the United States.

The Department of State has been very liberal in interpreting this provision, allowing the declaration of intention to be made at any time after the person concerned has reached the age of eighteen, and before he has taken the oath, which may be at any reasonable time after his majority. The main question raised is that of good faith. Arises here the principle of "election of nationality"; many countries accord to a person thus in danger of what might be called "dual nationality" the right to choose. This is the case in France, Spain, Belgium, Greece, Italy, Portugal, Mexico, Chile, and Costa Rica. In Portugal, Italy, and France, failure to exercise this choice operates as a choice of citizenship there; in Spain, on the other hand, silence is construed as a choice of the foreign nationality. This is the purport of the American practice.[1]

CHILDREN BORN AT SEA

It is commonly believed that children of foreign parents born on the high seas under the American flag are as a matter of law "born in the United States and subject to the jurisdiction thereof," but this is not clearly the case. As Borchard puts it, the child "is

[1] See discussion of this question by Borchard—*The Diplomatic Protection of Citizens Abroad*, p. 583 *et seq.*, and footnotes.

probably an American citizen under our law and may also be a foreign subject *jure sanguinis*. Hence he would, upon attaining majority, have a right of election.

QUESTION OF DUAL NATIONALITY

Can a person gain a new citizenship without losing the old? The aspirant for American citizenship is required in both his declaration of intention and his final petition for naturalization to abjure in most specific fashion not merely all other allegiances, but most particularly that from which he has come. But the sovereignty thus repudiated is not always willing to be abjured, and international diplomacy has been in the past much occupied with the tangles growing out of the question of "dual nationality." For one not uncommon example, the child of alien parents born in the United States and thereby under our law a citizen of this country, may be taken in childhood back to his father's native land, and upon reaching military age may be summoned to military service. The United States has not been prone to defend such persons when their actual residence in the old country was clear, but it has been maintained that upon the attainment of his majority such a person has the right to elect and re-establish his American citizenship.

The most common difficulties arise practically, however, from the fact that under the terms of his declaration to become a citizen of the United States, the alien repudiates his allegiance to his fatherland and its sovereignty, but does not gain, and cannot gain, for at least two years in any circumstances, a new citizenship. He has in most specific fashion flouted the government he had, but the government he desires to have will not protect him. For his practical uses, it is a

question whether he has now *two* nationalities or *none!* Moreover, there have been countries and times in which the right to change allegiance was altogether denied.

In their attitude on the subject of voluntary expatriation the nations differ widely, and are divisible in this matter under three heads: those which deny the right altogether, those which permit it under certain conditions, and those which place no bar in the way.

COUNTRIES DENYING THE RIGHT OF EXPATRIATION

Under the old regime, the Russian imperial government laid a heavy penalty upon the Russian subject who returned to Russia after having been naturalized abroad without the imperial consent.[1]

Turkey, under a law proclaimed in 1869, prohibited the naturalization of its subjects abroad without the permission of the Turkish government. The penalty provided was imprisonment or expulsion.[2] In practice, however, expulsion has been the only penalty inflicted, and the United States has contented itself with an occasional protest.

The practice of Greece is not entirely clear-cut or consistent. A law enacted in 1914 requires the permission of the government before naturalization abroad; in practice this is not given to those who have not discharged their legal obligations as to military service.[3] The practical effect of this attitude on the part of Greece has been shown chiefly in the failure

[1] See Department of State, Circular notice, January 9, 1914.

[2] In former times, even the American-born child of parents of Turkish birth has gone to that country at his peril. This was under the old conditions; what the postwar reconstruction will effect in this regard remains to be seen.

[3] See Hall, *International Law*, 7th ed., p. 247.

of Greeks in this country quite generally to seek naturalization.

CONDITIONAL RECOGNITION

The obligation which these countries commonly require as a prerequisite to permission is that of military service for the required period. Perhaps the best example of this group is France, which has provided by law that its nationals may divest themselves of their French citizenship provided they are thirty-one years of age, and thus may be presumed to have complied with the conditions of military service.[1] The other countries requiring similar conditions are Italy, the Netherlands, Serbia, and Switzerland; the usual penalty being liability to arrest upon return, and the compulsory fulfillment of the military requirements. But Switzerland provides for an annual tax in lieu of the military requirement.

The United States government has repeatedly sought through diplomatic channels to secure mitigation of penalties inflicted by these countries on its naturalized citizens; in many cases with a greater or less measure of success; but it has been unable to secure by treaty with any of these countries an unconditional recognition of the right of expatriation.

NATURALIZATION TREATIES WITH THE UNITED STATES

The first naturalization treaties which this government negotiated embodying recognition of the right of expatriation were the so-called "Bancroft Treaties" of 1869, with the states of the North German Confederation—Bavaria, Hesse, Baden, and Württemberg. In

[1] See Hall, *International Law*, p. 246.

the four years following similar treaties were concluded with Belgium, Great Britain, Sweden, and Norway, Austria-Hungary, Denmark, and Ecuador. Since then treaties of like import have been effected with Haiti, Portugal, Peru, Honduras, Salvador, Nicaragua, Uruguay, Brazil, and Costa Rica.[1] These treaties provide, in substance, for expatriation at will, but stipulate that subjects liable for offenses committed prior to emigration shall continue liable for the same, and that two years' continuous resumption of residence in the country of origin shall be presumptive evidence of renewed citizenship in the old country. Under our own law, this loss of acquired citizenship by two years' continuous residence in the country of origin is specifically recognized. And it is also generally provided that upon return to his former country a naturalized American shall be liable to punishment for the "evasion of an existing or accrued liability to military service"; but he is protected against the exaction of what was at the time of emigration merely (by reason of youth) a *future* liability to serve.[2]

GREAT BRITAIN

Until the year 1870, England held tenaciously to the doctrine of the indelibility of national allegiance. Everyone was free to emigrate at will and live where he pleased, but wherever he went, and whatsoever he might do in the attempt to acquire another citizenship, he was an Englishman still, in the eyes of the British law inalienably a subject of the British crown. Al-

[1] These treaties may be found in Malloy's *Treaties*, 1910–13; also see Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, p. 548 *et seq.*

[2] Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, p. 549.

though the author probably did not realize it, there was a certain grimness underlying the lines in "Pinafore":

> But, in spite of all temptations
> To belong to other nations,
> He is an Englishman!

And although the War of 1812 between the United States and Great Britain was chiefly provoked by the insistence of England upon her slogan, "Once an Englishman always an Englishman," and her refusal to mitigate her policy with regard to British-born sailors naturalized by the United States, the theory continued to be stoutly declared as a matter of principle, though perhaps with diminishing emphasis. Hall says, however,[1] that by 1870 it "had become an anachronism." And after the report of a British royal commission on the subject, Parliament enacted a statute providing that a British subject might lose his British nationality by naturalization in another country. This long-maintained attitude of Great Britain undoubtedly goes far to account for the failure of many persons of English birth, long resident in this country, and for all practical purposes except political participation Americans, to seek formal adoption into our body politic.

GERMANY

Most of the discussion of our citizenship relations with Germany has centered latterly about the German Citizenship and Nationality Law, better known as the "Delbrück Law," enacted in July, 1913—a year before the outbreak of the Great War. Attention has focused especially on Section 25 of the statute, which reads as follows:

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[1] Hall, *International Law*, 7th ed., p. 241.

A German who has neither his residence nor permanent abode in Germany loses his citizenship upon acquiring foreign citizenship, provided the foreign citizenship is acquired as a result of his own application therefor or the application of the husband or legal representative; but in the case of a wife of one having a legal representative, only when the conditions exist under which expatriation may be applied for according to Sections 18 and 19.

Citizenship is not lost by one who, before acquiring foreign citizenship, has secured on application the written consent of the competent authorities of his home state to retain his citizenship. Before this consent is given the German consul is to be heard.

The Imperial Chancellor may order, with the consent of the Federal Council, that persons who desire to acquire citizenship in a specified foreign country may not be granted the consent applied for in paragraph 2.

It was charged, and widely believed in this and other countries at war with Germany, that this law was a device, deliberately conceived by the German autocracy with the war in view, to enable Germans living in other countries malevolently, or with ulterior motives and mental reservations, to acquire naturalization there and go through the forms of allegiance, without in fact ever losing, or being able to lose, their German citizenship. The text of the statute certainly gives more than plausible color to such an interpretation.

It may well be doubted whether in normal conditions, and apart from the suspicion of Germany's every motive, which is justified by her conduct prior to and during the war, this statute would have received any such interpretation in the eyes of the rest of the world; it is difficult to divorce thought of things German from the world's state of mind for which Germany has only herself to thank. Nevertheless, it is probable that the law was of normal origin, and apologists for it assert that its design was to meet conditions existing

with reference to Russia, Italy, and France, all of which in some measure denied the right of expatriation in absence of specific treaty. Section 36 of the Delbrück Law definitely declares that "existing treaties are not affected by this Act." And when the law was under consideration in the Reichstag, the representative of the German government, upon being interrogated as to the effect of Sections 25 and 26 upon the Bancroft treaty between the United States and Germany, replied, in so many words, that the German government was obliged to look upon every German naturalized in the United States as an American and nothing else.[1] Space is not available here for further discussion of the real significance of the Delbrück Law; suffice it to say that it is the subject of considerable difference of opinion among the authorities.[2] But it may be said, in general, that the best American authorities seem to be of the opinion that the specific renunciation of each and every former allegiance required by our naturalization process makes it substantially impossible for the disputed section or any other enactment to operate as creating a dual allegiance. Such allegiance could exist only in theory at most; in no practical way could any foreign government enforce it as against any person living in America. The United States, under the Bancroft treaty and its own naturalization law, would not tolerate such an interpretation, and

[1] See *Dr. jur. A Romen, Reichs und Staatsangehorigkeitsgesetz, Güttentag Sammlung*, No. 111.

[2] A notable discussion of the Delbrück Law is to be found in an article by T. H. Thiesing, "Dual Allegiance in the German Law of Nationality and American Citizenship." *Yale Review*, 27:4 (February, 1919). See also R. Flournoy in *American Journal of International Law*, 8:480 (July, 1914), and the *Meycr Reichs-und-Staatsangehorigkeitsgesetz vom 22 Juli, 1913*. Berlin, 1913, p. 168-E.; also Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, p. 576; also Hall, *International Law*, revision by A. Pearce Higgins, pp. 245–246.

as the "War Encyclopedia" of the American Committee on Public Information said, "it would be impossible for a German applicant for citizenship in the United States to avail himself of this section [Section 25 of the Delbrück Law] without committing perjury."

So far as the "declarant" of any nationality is concerned, it should be added that our Department of State has always sought to maintain that a declarant is in a position different from that of the ordinary alien, has extended a limited degree of protection, and now issues passports under the authority of an Act passed March 2, 1907—provided he has resided in the United States for three years; at the same time protecting itself from imposition by such persons by limiting the validity of such passports to a term of six months, and providing that an extended residence or domicile abroad shall be construed as an abandonment of the declared intention. Moreover, the naturalizing judges and the Bureau of Naturalization examine with great strictness the reasons for any absence whatever from the country after the declaration, and usually construe "intention" with regard to continuous residence with emphasis against the applicant. Many judges permit no absence, however brief, some going so far as to rule against any absence from the very county in which the applicant resides. And during the European War the issuance of such passports to natives of the belligerent countries was altogether suspended.[1]

The United States was early committed not only by specific utterances and practices, but by the whole psychology and tradition of its being, to the principle

[1] The status of declarants in this and other relationships is fully discussed by Edwin M. Borchard, in *The Diplomatic Protection of Citizens Abroad*, pp. 501 *et seq.* and 568 *et seq.*, with elaborate footnotes citing authorities and precedents.

of free expatriation; nevertheless, great confusion existed in the interpretation of the right as it related to efforts of American citizens to become citizens or subjects of other countries. The policy was finally crystallized in the Act of March 2, 1907, which provides definitely that "any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state." This is the Act which, in the same section, provides for the extension of naturalization by presumption upon two years' residence in "the country from which he came," or upon five years' residence "in any foreign state." But it is provided that "such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such regulations as the Department of State may prescribe." It is stipulated, however, that "no American citizen shall be allowed to expatriate himself when the country is at war."

During the Great War many American citizens imperiled, and in fact technically lost, their American citizenship by entering the military service of the various belligerent nations. After the entry of the United States into the conflict this was remedied by the enactment of Section 12 of the Act of May 9, 1918, in which it is provided that

> . . . any person who, while a citizen of the United States and during the existing war in Europe, entered the military or naval service of any country at war with a country with which the United States is now at war, who shall be deemed to have lost his citizenship by reason of any oath or obligation taken by him for the purpose of entering such service, may resume his citizenship by taking the oath of allegiance to the United States prescribed by the naturalization law and regulations; . . .

such oath to be taken here or abroad, before any state or Federal court authorized to naturalize aliens, or before any United States consul.

CITIZENSHIP TAKES NO ACCOUNT OF SEX

Basic citizenship in the United States takes no account of sex. *Every* child, male or female, white, black, brown, red, or yellow, "born in the United States and subject to the jurisdiction thereof," is *ipso facto* a citizen. And every unmarried woman of that nativity is, and continues to be such, as long as she remains unmarried. Upon marriage she takes forthwith, whether she will or no, so far as our law is concerned, the nationality of her husband—even if he be an alien. It is the unbroken tradition of our law, and of the laws of nearly all other nations—in so far as they recognize women as being individual citizens at all—that the nationality of a wife follows that of her husband. Of that tradition was born a section of the law of 1907 which seeks to confer upon any American woman marrying a foreigner the nationality of her husband. When an alien man becomes a citizen of the United States by naturalization, his wife, in ordinary circumstances, becomes a citizen with him; the law says specifically that "a woman who is now, or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, may be deemed a citizen." But, generally speaking, she must, unless herself American born, be resident in this country. The practice in this regard has not been wholly consistent; the State Department has held repeatedly that the naturalization of a husband does not reach the wife if she continue to reside in the old country; but a very uniform line of decisions is to the effect that her husband's naturalization makes her a citizen wherever she may be, and

that she remains a citizen even after his death unless she takes action to repatriate herself. The Act of 1907 makes it necessary for such a foreign-born widow resident abroad to register with a United States consul within a year after the termination of her marriage; otherwise her citizenship lapses.

The phrase, "who might herself be lawfully naturalized," has given rise to much controversy, and its significance has not been definitively declared. Some authorities hold it to apply only to the Oriental races excluded as such from citizenship; others hold that it should be interpreted to call for an examination of the wife as to her views on the subject of anarchism, polygamy, etc. But the general tendency seems still to hold that the family is one, *and the husband that one;* that, therefore, *any* sort of wife comes into citizenship automatically with the naturalization of her husband.

"A WOMAN WITHOUT A COUNTRY"

The nonresident American-born wife of a foreigner may, upon his death or the termination of the marriage in any other legal manner, resume her American citizenship by registration with a United States consul. But what of the woman, born an American citizen, married to an alien who continues to live? The United States statute of 1907 undertakes to expatriate her—"any American woman who marries a foreigner shall take the nationality of her husband." But, in absence of specific treaty, or of legislation in the husband's country to that effect, that pronouncement is without force or validity outside of the United States; Congress has no power to confer or inflict the citizenship of any other nation upon anybody. "The operation of this statute might easily deprive a woman of her American citizenship—even if she had it by right of

birth—and leave her with none." [1] It seems rather extraordinary that of all the judges of American naturalization courts replying to the questionnaire of the Americanization Study, whose results are discussed elsewhere in this volume,[2] not one referred directly to this aspect of the citizenship of the American woman.

The person without a country is an alien everywhere his foot may fall—no matter under what roof or flag he may seek shelter. He is subject to the local laws and limitations governing aliens; but he has no homeland whose flag he may call his own; no government anywhere to which he may appeal for protection; he is dependent without recourse upon the hospitality, grace, and mercy of the public authorities and the people of the land where he chances to make his habitation.

THE AMERICAN UNDER THREE JURISDICTIONS

In notable contrast with this dismal prospect, the American citizen, native or naturalized, is quite otherwise. He is subject to *three* concurrent jurisdictions. This fact is a source of great puzzlement to many an applicant for citizenship, and constitutes one of the stumbling-blocks which beset him in his initial understanding of our system of government.

First, the nature of his relation to the United States. In the case of Minor *vs.* Happerstett,[3] decided in 1875, the Supreme Court of the United States said:

> Before its adoption, the Constitution of the United States did not in terms prescribe who should be citizens of the United States, yet there were necessarily such citizens with-

[1] See Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, pp. 19, 591.

[2] See chap. vi, p. 148 *et seq.*

[3] 21 Wallace, 162.

out such provision. There cannot be a nation without a people. The very idea of a political community, such as a nation is, implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. He owes it allegiance and is entitled to its protection. Allegiance and protection are, in this connection, reciprocal obligations. The one is a compensation for the other; allegiance for protection and protection for allegiance.

For convenience it has been found necessary to give a name to this membership. The object is to designate by a title the person and the relation he bears to the nation. For this purpose the words "subject," "inhabitant," and "citizen" have been used, and the choice between them is sometimes made to depend upon the form of government. "Citizen" is now more commonly employed, however, and as it has been considered better suited to the description of one living under a republican government, it was adopted by nearly all of the states upon their separation from Great Britain, and was afterward adopted in the Articles of Confederation and in the Constitution of the United States. When used in that sense it is understood as conveying the idea of membership of a nation, and nothing more.

To determine, then, who were the citizens of the United States before the adoption of the [Fourteenth] amendment it is necessary to ascertain what persons originally associated themselves together to form the nation, and what were afterward admitted to membership.

The effect of this decision, and of the Fourteenth Amendment whose meaning it declared, was to determine definitively that National Citizenship is paramount to State Citizenship. But it did not entirely absorb the latter into the former. In the famous "Slaughter House Cases" [2] the Supreme Court three years before had held that there might be citizens

[1] Butchers' Benevolent Association *vs.* Crescent City Live Stock Company, 16 Wallace, 36.

of the United States who were not citizens of any state, and that the Fourteenth Amendment applied particularly, if not solely, to the privileges and immunities of citizens of the United States, *as such*, and did not necessarily limit the right of a state to inflict disabilities upon its own citizens.

The distinction between the two citizenships was thus stated in the Slaughter House cases:[1]

> The distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union. It is quite clear, then, that there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.
>
> It is therefore decided that while a State may no longer decide the question of who shall be or become its citizens, the citizen of the United States must, before becoming a citizen of a State, take up his residence within the State. The term of residence is nowhere fixed, but a permanent residence or domicile is understood, "with intent that it shall continue until subsequent removal with the intent of abandoning such residence and acquiring another."

These momentous adjudications did not, however, address themselves to the matter of political participation. Although a state might not determine who should constitute its citizen body, there was no curtailment of its full authority to determine what political privileges should exist, or who should enjoy them. Neither Federal nor state citizenship, *per se*, entitles

[1] McClain, *Constitutional Law in the United States*, p. 276.

a man or woman to vote or to hold office; these are matters of state legislation and a number of states have accorded, and two still accord, to aliens who have merely declared their intention to seek citizenship, the right to vote. Moreover, respected authorities[1] hold the opinion that, while no state can prevent a citizen of the United States from becoming a citizen of the state, a state may grant its own citizenship to one who is not—perhaps to one who cannot become—a citizen of the United States.[2] But the Act of Congress, May 6, 1882, expressly prohibits the naturalization of any Chinese person.

The courts from the beginning have recognized the existence of two concurrent, if not more or less separable, citizenships. In the Cruikshank case in 1875,[3] the Supreme Court said:

> The people of the United States resident within any State are subject to two governments; one State and the other national; but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes, and have different jurisdictions. Together they make one whole, and furnish the people of the United States with one government, ample for the protection of all their rights at home and abroad. True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. . . . This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen cannot complain because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak,

[1] See Willoughby on the Constitution, i, p. 272.
[2] See *in re* Wehlitz, 16 Wisconsin, 443.
[3] United States *vs.* Cruikshank, 92 U. S., 542.

and within their respective spheres must pay the penalty which each exacts for disobedience to its laws. In return he can demand protection from each within its own jurisdiction.

There is still another jurisdiction to which citizens must give attention, and to the foreigner it is an added perplexity in the understanding of our system: the purely local laws, ordinances, and rulings of city, health, police; of country, town, and village; and sometimes these seem to run counter to one another, and leave him in a maze of fear and uncertainty—to say nothing of those mysterious exceptions, exemptions, and immunities which seem to be accorded for the benefit of those who, by political loyalty or subserviency, favoritism—and even cash payments upon occasion—have got themselves "in right," as the saying goes.

The problems of national solidarity and loyalty raised so acutely all over the country by the exigencies and conflicts of the war have made the mass of the people of the United States keen as never before about the standards and technical tests of citizenship. The tendency, very marked now, is to establish and uphold the uniformity of conditions which beyond a doubt shall represent the spirit, if not the letter, of the law. We are now to consider the machinery and the process which the aspirant for citizenship confronts as he knocks at our wicket.

IV

DEVELOPMENT OF THE NATURALIZATION LAW

NATURALIZATION, the legal ceremony by which the native or adopted citizen of one country acquires citizenship in another, is in its significance and essentials very ancient—it goes back to the blood transfusion and other primitive ceremonials by which those of other kin were admitted as brothers to full standing in family, clan, or tribal membership. It registers and effectuates two distinct things—a divorce and a new marriage, so to say. There are two parties to the twofold process: the petitioner, who on his own account renounces the old allegiance and professes his desire and his intention to assume the new; and the adopting government which, on its part, accepts the applicant and upon him confers the standing and privileges and imposes the responsibilities and obligations attaching to citizenship under its protection and authority. This is precisely the nature of the process through which must go every foreign-born person who becomes an active member of the United States.

OUR "CHARTER MEMBERS"

As in the case of other new organizations, we had at the beginning what might be called "Charter Members." We were not fussy about it. There was no prejudice then against the newcomer—we "needed him in our business!" The Constitution of the United

States in its inception took in as a matter of course everybody then resident here who by any color of law could be construed to be entitled to membership. Even the provision requiring native birth for the Presidency limited it only to one natural born, "or a citizen of the United States at the time of the adoption of this Constitution." [1] Martin van Buren was actually the first President born an American citizen. The seven who preceded him all were born subjects of the British crown.

Prior to 1700, few immigrants who were not British subjects had sought homes in the American colonies; the few of other nationality found no difficulty in being accepted as fellow citizens with those who preceded them. For obvious reasons, the Colonial governments were liberal in granting civil rights to newcomers of almost every sort. It was absolutely vital to the preservation of the new civilization here that there should be an increasing number of men to assist in conquering the wilderness and in defending the fringe of settlements against attack. How could the pioneer nation have maintained itself, much less have advanced and spread westward until its feet were stopped by the Pacific, without these adventurous souls of every race?

So the sieve was of coarse mesh.

FIRST NATURALIZATION LAWS

Generally speaking, except where a colony had legislated independently in the matter, the British law was in effect. Under this, an alien might be natural-

[1] This exception is said to have been included principally to allow eligibility to Alexander Hamilton, who was born in the West Indies, under the British flag.

ized by the Act of Parliament, or given partial rights by grant of the king, in "Letters of Denization."

Prior to 1740, a number of naturalization laws were passed by Colonial legislatures. General laws were passed by New York and Pennsylvania in 1683, South Carolina in 1696, and Virginia somewhat later. The use of the private Act of Naturalization was very common, especially in Pennsylvania and New York. The general Act of Pennsylvania was in fact revoked by Queen Anne, and from that time until 1840 all naturalizations in that colony were by private or special legislation.

Probably the first naturalization of aliens in the New World was the collective acceptance of the Dutch inhabitants of New Amsterdam (New York) by the articles of capitulation in 1664, by which they with their territory passed under the British flag. Two years later Augustine Herman of Prague, with his family, was naturalized by Act of the Maryland Assembly. This appears to have been the first naturalization law enacted in America.

The rights conferred by all of these Colonial Acts were limited strictly to the colony in which each was passed. Political rights varied in the different colonies, chiefly according to voting qualifications in force in each. But since most of them provided for a property qualification, the permission to foreigners to own land usually carried with it the right of suffrage. However, in some of the colonies the naturalized citizen was not eligible to public office. For all practical purposes of social standing, the ownership of land sufficed, and since that could be passed down by inheritance, and it was always admitted that a child born on this soil was a citizen regardless of his racial descent, the restrictions were hardly irksome at that time.

In 1740 the English Parliament passed an Act for

providing for naturalization in the American colonies[1] of "foreign Protestants." Persons naturalized under this statute might enjoy all civil rights except that of holding certain offices. A residence of seven years was required, and certain oaths and rites were imposed, including partaking of the sacrament of the Holy Communion in accordance with the ritual of the Church of England. Quakers and Jews, however, were the subject of exemption; Quakers were permitted to affirm, rather than to swear, and Jews were permitted to omit the words, "on the faith of a Christian." This Act remained the basic law of the American provinces until the Revolution, when all British statutes were, at least constructively, superseded by Acts of the Congress of the United States of America.[2]

Among the grievances recited against the government of George III was the treatment of this subject of naturalization. It is thus set forth in the Declaration of Independence:

> He has endeavored to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new Appropriation of Lands.

Under the Articles of Confederation, which served the new republic until the adoption of the Constitution, no specific action was taken by the Congress to provide for the naturalization, although certain provision was made for an oath of allegiance for office-holders, and to facilitate desertion from the British ranks by offers of land and of citizenship. After the Revolution

[1] 13 George II, chap. 7—Ruffhead's *Statutes-at-Large*, vi, p. 384.

[2] See Channing's *History of the United States*, vol. ii, pp. 413–416; also A. H. Carpenter, "Naturalization in England and the Colonies," *American Historical Review*, vol. ix, p. 288.

a number of individual states enacted naturalization statutes: Massachusetts, 1783–89; Delaware, 1788; Maryland, 1779; New York, 1789; South Carolina, 1784; Virginia, 1779–85. These Acts generally provided very easy methods for the acquisition of citizenship—usually requiring only an oath of allegiance, without any specific length of residence; though Virginia required a formal declaration of intention to remain here, and South Carolina insisted upon a previous residence of at least one year.

EFFORTS TOWARD UNIFORMITY

The obvious and constant embarrassment arising from different requirements under diverse jurisdictions was recognized and discussed before the making of the Federal Constitution. James Madison, for example, in 1782, urged the necessity of a uniform practice. So general was the recognition of this need that the Constitutional Convention took it for granted, and almost without discussion adopted the provision which still stands, and under which all subsequent legislation has gained its authority:[1]

> Congress shall have power . . . to establish an uniform rule of naturalization . . .

And almost immediately (1790), President Washington having urged it in his message in January of that year, Congress enacted a general Naturalization Act.[2]

The considerable debate in Congress concerning this measure not only throws an interesting light upon the policies prevailing at that time, but shows that while the new government realized the importance of desirable immigration, there was full realization of the

[1] *Constitution of the United States*, art. i, sec. 8, 4.

[2] *United States Statutes-at-Large*, vol. i, pp. 103–104.

difficulty of so adjusting the process of naturalization as to facilitate this while at the same time protecting the essentials of the American spirit and institutions from the insidious influences feared from certain types of newcomers. The conflicting attitudes of the highly liberal Quakers in Pennsylvania and the austere Puritans of New England—visible in many ways in all the legislation of the early years in the contrasting jurisdictions of the northern Atlantic colonies, appears clearly in the debates, from which emerged the Act of 1790, whose essentials were as follows:

I. Naturalization to be conferred by any court of record.
II. A requirement of two years' residence in the United States, and one year within the State.
III. Proof required of good moral character, and oath to support the Constitution of the United States.

This Act was repealed in 1795 by another[1] introducing the declaration of intention to become a citizen, and extending the period of required residence from two years to five. This Act has been the basis of our naturalization system ever since. Its main provisions were these:

I. A preliminary declaration of intention to become a citizen of the United States, to be made at least three years [the present law specifies two years] before final application for citizenship.
II. Naturalization jurisdiction was vested in any "supreme, superior, district or circuit court" of the states or of the territories northwest or south of the River Ohio, or a a circuit or district court of the United States.
III. Five years' residence in the United States, and one year's residence in the state in which the application was made.
IV. An oath of allegiance.

[1] *United States Statutes-at-Large*, vol. i, pp. 414–441.

Aliens then residing in the United States might be naturalized after *two* years' residence.

This Act was fathered by James Madison, then a member of Congress.

President Jefferson, in his first message to Congress, advocated a revision of the Naturalization Law, to the end that "the general character and capabilities of a citizen be safely communicated to everyone manifesting a bona fide purpose of embarking his life and fortunes permanently with us."

Accordingly the Jeffersonian Congress of 1802 repealed the Act of 1795, and enacted one[1] which remained substantially in force for more than a century. Its provisions, in the main, were as follows:

I. Naturalization jurisdiction was vested in the supreme, superior, district and circuit courts (a district court meaning any court of record having common-law jurisdiction) in the states and territorial districts and in the circuit and district courts of the United States.

II. The Declaration of Intention was still required, with the three years' interval before final application.

III. Five years' residence in the United States and one in the State was still required.

IV. Oath of allegiance to the United States, with specific renunciation of former allegiance.

V. Proof of good moral character and attachment to the principles of the United States.

Under this Act the children of persons duly naturalized were, if resident in the United States, to be considered citizens, and those born elsewhere were to enjoy the same status, provided that the citizenship should not descend to children whose fathers never resided in the United States.

An Act passed in 1804 slightly modified the regula-

[1] *United States Statutes-at-Large*, vol. ii, pp. 153–155.

tion in favor of aliens residing in the United States between 1798 and 1802, and provided also that in case a "declarant" should die before his naturalization had been consummated, his widow and minor children should be deemed citizens upon taking the prescribed oath.[1]

During the second war with England, in 1813, an Act was passed requiring the five years' residence to be absolutely unbroken by any absence whatever from the United States, and prescribing penalties for forgery or sale of naturalization certificates.[2] Later in the same year another law was passed to permit the naturalization of alien enemies (then Englishmen) who had declared intention prior to June 18, 1812.[3] Another important amendment was made in 1816.[4]

In 1824, following a period of agitation for earlier naturalization, Congress passed an Act, the most important provision of which[5] reduced from three to two years the minimum interval between the declaration of intention and final naturalization. It is interesting to note that this agitation for more liberal conditions came, as might be expected, at the time of the initial influx of aliens to the Eastern cities, and the beginnings of the political exploitation of the "foreign vote."

Further slight changes were made in 1828,[6] and after twenty years more, in 1848, Congress abolished the restriction of 1813 which forbade any absence whatever from the country during the five years' period of "continuous residence."[7] But during all of the period between 1820 and the Civil War there was an increasing "Native American" agitation for narrower, rather than more liberal, restrictions, even to the point of abolishing naturalization altogether. Innumerable bills

[1] *United States Statutes-at-Large*, vol. ii, pp. 292–293.
[2] *Ibid.*, p. 811. [3] *Ibid.*, vol. iii, p. 53. [4] *Ibid.*, vol. iii, p. 259.
[5] *Ibid.*, vol. iv, p. 69. [6] *Ibid.*, vol. iv, p. 310. [7] *Ibid.*, vol. ix, p. 240.

were introduced reflecting this agitation; but, owing both to the increasing importance of the foreign-born element in politics, and to the underlying realization that the nation must have a constant accretion of population, no such legislation reached the statute books. The three minor amendments enacted during and immediately after the Civil War were designed to meet conditions arising out of the state of war.[1]

In 1876 the Act of 1802 was amended so that the declaration of intention could be made, as it is now, before the clerk of any of the courts having naturalization jurisdiction.[2] And in 1872 and 1894 provision was made for the easier naturalization of the United States soldiers, sailors, marines, and merchant seamen, about whose permanency of residence there was embarrassment.[3]

BARS UP AGAINST ALIEN ANARCHISTS

The assassination of President McKinley, in 1901, by a professed anarchist brought to a head the feeling against foreign ultra-radicals, and resulted in the enactment in 1903 [4] of the restriction against the admission to this country of persons believing in the abolition of organized government or the removal of public officers by violence. This test is widely applied now by judges and by the Naturalization Service in the examination of applicants for citizenship.

VARIOUS PRESIDENTS DISCUSSED NATURALIZATION

The importance of the subject of the absorption of foreign-born persons into our life is reflected all through

[1] *United States Statutes-at-Large*, vol. xii, p. 597.
[2] *Ibid.*, vol. xix, p. 2.
[3] *Ibid.*, vol. xvii, p. 268, and vol. xxviii, p. 124.
[4] *Ibid.*, vol. xxxii, pt. 1, p. 1222.

the records of the government; allusions to it may be found in a large proportion of the messages of the Presidents to Congress. John Adams found occasion to express abhorrence of "intrigues of foreign agents to alienate the affections of the Indians and to arouse them to acts of hostility."

The liberal sentiments of Thomas Jefferson appeared in his early recommendation of a revision of the law requiring fourteen years' residence: "Shall we refuse the refuge extended to our fathers," said he, in substance, "to the unhappy fugitives from distress arriving in this land? Shall oppressed humanity find no asylum on this globe?" But at the same time he remarked that for admission to certain offices of trust, a residence should be required sufficient to develop character and an appreciation of the design of our institutions.

James Madison's interest in the subject was exhibited throughout his administration, and especially in his activities on the floor of Congress.

President Buchanan insisted upon the full status for naturalized citizens.

> Our Government is bound [said he] to protect the rights of our naturalized citizens everywhere to the same extent as though they had drawn their first breath in this country. We can recognize no distinction between our native and naturalized citizens.

Abraham Lincoln and Andrew Johnson touched upon the question of the French and Russian claims upon immigrants who came here merely to escape military service; Lincoln pointing out that there should be a time limit beyond which the United States would not attempt to protect persons who came here for that reason and then returned to their native countries claiming to be American citizens; Johnson, on the

other hand, emphasizing the effect of naturalization in absolving the individual from all former allegiance. President Grant urged Congress to define the conditions of expatriation, and to regulate by law the status of children of aliens becoming naturalized, and that of American women marrying noncitizens. He also drew attention to the growing evil of fraudulent naturalization, and urged the establishment of a system of uniform certificates and records.

President Arthur also called for a central bureau of registry, and for a general revision of the naturalization law, pointing out that much of it now had only historical interest, that the provisions regarding children of naturalized parents were ambiguous, and that the constitutional authority to establish "an uniform rule" called for a clear definition of the status of "persons born within the United States subject to a foreign power, and minor children of fathers who have declared their intention but have failed to perfect their naturalization."

President Cleveland devoted a good deal of attention to the subject. He, too, emphasized the need of centralized Federal control over the records, and repeatedly called for a general revision of the law, insisting that the "privilege and franchise of American citizenship" should be granted with scrupulous care. He gave warning against "the easy and unguarded manner in which certificates of naturalization can now be obtained," and the growth of a class of persons who availed themselves of it for political purposes.

Benjamin Harrison emphasized the need of an investigation of the moral character of the applicant for citizenship, to make more certain the existence of a "good disposition toward our government"; calling also for a more particular system of court hearings, with

proper opportunity for representatives of the government to appear. He declared that "avowed enemies of social order" should be denied not only citizenship, but even domicile here. He also adverted to the evils of fraudulent naturalization.

DEFINITE REFORM AT LAST

It was the growing realization of this general condition, of the notorious ease with which naturalization could be acquired; the wholesale issue and sale of fraudulent certificates; the debauching of elections through the manipulation of the "foreign vote," and the general cheapening of the franchise, that brought the subject to a head. It was common knowledge that these frauds were prevalent wherever there were large numbers of foreign-born people, and that both of the great political parties vied with each other in exhausting ingenuity to devise methods for the exploitation of the alien population. Which party excelled in the business depended almost entirely upon which was dominant in any particular community. The situation was a scandal in any event, and the sober sentiment of the nation realized increasingly that something must be done about it.

NATURALIZATION COMMISSION APPOINTED

It was not until the administration of President Roosevelt, however, that definite steps were taken. During the years 1903–05 the Department of Justice became very active in unearthing and prosecuting violations of the naturalization laws. Hundreds of cases of fraudulent naturalization were discovered, and nearly seven hundred convictions were obtained. A special examiner of the Department of Justice, A. C. van

Deusen, made an extensive report on the subject in 1905.[1]

By Executive Order, March 1, 1905, President Roosevelt created a special commission, consisting of Milton D. Purdy, Assistant Attorney-General representing the Department of Justice, chairman; Gaillard Hung, chief of the Bureau of Citizenship in the Department of State, representing that department, and Richard K. Campbell, attorney for the Immigration Bureau in the Department of Commerce and Labor (now Commissioner of Naturalization in the Department of Labor), "to investigate and report on the subject of naturalization in the United States," and to recommend changes in the naturalization laws.[2] The commission's report is invaluable in any study of the subject of Naturalization Law and Procedure.

The average citizen scarcely realizes how completely the Naturalization Law of 1906, which was the fruit of the labors of this commission, has revolutionized the whole business. Whatever may be the defects of the law, or of the practice which has grown up under it, they are in the main due to "leaning over backward" in the honest effort to clean and keep clean the flow of new blood into our citizenship. Generally speaking, it is to be said that the enforcement of this statute has abolished most of the evils of fraud and exploitation which before that were a scandal and a menace in American political life.

By this act the Naturalization Service was established and an absolutely new era initiated. As Mr. Campbell, who forthwith became chief of the Division

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[1] Extracts from this report may be found in the *Report of the President's Commission on Naturalization*, Fifty-ninth Congress, First Session. House Document 46.

[2] The report of this commission is available as House Document 46, Fifty-ninth Congress, First Session.

of Naturalization in the Bureau of Immigration,[1] said in his report for the fiscal year ending June 30, 1908, the process of becoming naturalized as an American citizen

. . . has acquired (even after so short an operation of the new system) a formality and dignity which is in some measure commensurate with the importance of the Act and the gravity of its consequences; it is no longer possible to "railroad" aliens in groups to the naturalization courts, in defiance of the law and in disregard of even an appearance of propriety; the courts which have jurisdiction are no longer such as are "devoted largely to the trifling and indecent affairs of the community," and the conferring of citizenship is, in this respect, no longer "ranked with disturbing the peace or keeping an unlicensed dog," as it was expressed by a judge of a court in describing the conditions under the old law.

And in his seventh report, for 1913–14, to the Secretary of Labor, Mr. Campbell remarked that

To those who will take the trouble to compare the chaotic and disorderly conditions which characterized the procedure for more than a century of our national existence with the dignity, uniformity, and regularity of the present system, it must appear to be a matter of inexplicable carelessness that the reform should so long have been delayed.

In the same report, the Commissioner of Naturalization points to one reform embodied at least potentially in the present system, which alone would have justified it:

There is, too, for the person naturalized, a security of title to his political or national status never before enjoyed by him. The title to citizenship is the recorded order of the

[1] With the creation of the Department of Labor, in 1913, out of the former Department of Commerce and Labor—Commerce becoming a separate department—the Naturalization Service became a Bureau of that department, headed by a Commissioner responsible to the Secretary of Labor.

court. The certificate is simply the conclusive evidence of such order. If there was no written record made, as was often the case, or if that record was destroyed, as happened not infrequently, the title to citizenship hung by the slender thread of a piece of paper carried by the owner and subject to all the risks attendant upon such possessions. If lost, to all practical intents his citizenship was also lost. Now the duplicate written record, one in the court and one in the Bureau [of Naturalization], is an ample defense against all such accidents.

It *would* be, indeed; but what if in course of time these records in the Bureau should have come into such condition, owing to inadequate clerical force and increasing absorption of the Bureau in other activities, that the record there could not be traced!

However, any criticism or consideration of the present system, to be intelligent or fair, must take into account, first, the incredibly chaotic conditions which formerly prevailed, and second, the fact that never—not even now—has the naturalization system, as a problem in public administration, received even superficial attention of the public.

WHAT THE LAW REQUIRES

Before we proceed to consider the naturalization process as in action it has affected annually upward of one hundred thousand human beings seeking admission to citizenship in the United States, let us see the principal provisions of the law with which they come into contact. Section 4 of the Naturalization Law[1] pro-

[1] Act of June 29, 1906 (34 *United States Statutes-at-Large*, pt. i, p. 596), as amended by Act of March 4, 1909 (35 *Stat.*, pt. i, p. 1102), as further amended by Act of June 25, 1910 (36 *Stat.*, pt. i, p. 830), as further amended by Act of March 4, 1913 (37 *Stat.*, pt. i, p. 736), as further amended by Act of May 9, 1918 (Public No. 144, Sixty-fifth Congress, Second Session).

vides that an alien may be admitted to become a citizen of the United States in the following manner "and not otherwise."

First. He shall declare on oath before the clerk of any court authorized by this Act to naturalize aliens, or his authorized deputy, in the district in which such alien resides, two years at least prior to his admission, and after he has reached the age of eighteen years, that it is his bona fide intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject. And such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel, if any, in which he came to the United States, and the present place of residence in the United States of said alien: *Provided*, however, that no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States, shall be required to renew such declaration.

Second. Not less than two years, nor more than seven years, after he has made such declaration of intention he shall make and file, in duplicate, a petition in writing, signed by the applicant in his own handwriting and duly verified, in which petition such applicant shall state his full name, his place of residence (by street and number, if possible), his occupation, and, if possible, the date and place of his birth; the place from which he emigrated, and the date and place of his arrival in the United States, and, if he entered through a port, the name of the vessel on which he arrived; the time when, and the place and name of the court where he declared his intention to become a citizen of the United States; if he is married he shall state the name of his wife and, if possible, the country of her nativity and her place of residence at the time of filing his petition; and if he has children, the name, date, and place of birth and place of residence of

each child living at the time of the filing of his petition: *Provided*, That if he has filed his declaration before the passage of this Act he shall not be required to sign the petition in his own handwriting.

The petition shall set forth that he is not a disbeliever in, or opposed to, organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in, or opposed to, organized government; a polygamist or believer in the practice of polygamy; and that it is his intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he at the time of filing of his petition may be a citizen or subject; and that it is his intention to reside permanently within the United States; and whether or not he has been denied admission as a citizen of the United States, and, if denied, the ground or grounds of such denial, the court or courts in which such decision was rendered, and that the cause for such denial has since been cured or removed; and every fact material to his naturalization and required to be proved upon the final hearing of his application.

The petition shall also be verified by the affidavits of at least two credible witnesses, who are citizens of the United States, and who shall state in their affidavits that they have personally known the applicant to be a resident of the United States for a period of at least five years continuously, and of the State, Territory, or the District of Columbia, in which the application is made, for a period of at least one year immediately preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is a person of good moral character, and that he is in every way qualified, in their opinion, to be admitted as a citizen of the United States.

At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Labor, if the petitioner arrives in the United States after the passage of this Act, stating the date, place, and manner of his arrival in the United States, and the declaration of inten-

tion of such petitioner, which certificate and declaration shall be attached to and be made a part of said petition.

Third. He shall, before he is admitted to citizenship, declare on oath in open court that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same.[1]

Fourth. It shall be made to appear to the satisfaction of the court admitting any alien to citizenship that immediately preceding the date of his application he has resided continuously within the United States five years at least, and within the State or Territory where such court is at the time held one year at least, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same. In addition to the oath of the applicant, the testimony of at least two witnesses, citizens of the United States, as to the facts of residence, moral character, and attachment to the principles of the Constitution shall be required, and the name, place of residence, and occupation of each witness shall be set forth in the record.

Fifth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or has been of any of the orders of nobility in the kingdom or state from which

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[1] The Oath of Allegiance usually imposed in these proceedings reads as follows:

I hereby declare on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to [*name of sovereign of country*] *of whom I have heretofore been a subject; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same.*

he came, he shall, in addition to the above requisite, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Sixth. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized the widow and minor children of such alien may, by complying with the other provisions of this Act, be naturalized without making any declaration of intention.

Section 8 of the Naturalization Law gives still further requirements:

That no alien shall hereafter be naturalized or admitted as a citizen of the United States who cannot speak the English language: *Provided*, That this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States: *And provided further*, That the requirements of this section shall not apply to any alien who has, prior to the passage of this Act, declared his intention to become a citizen of the United States in conformity with the law in force at the date of making such declaration: *Provided further*, That the requirements of section eight shall not apply to aliens who shall hereafter declare their intention to become citizens and who shall make homestead entries upon the public lands of the United States and comply in all respects with the laws providing for homestead entries on such lands.

The final hearing must be public, in open court, and the judge must pass upon the petition personally:

Section 9. That every final hearing upon such petition shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and witnesses shall be examined under oath before the court and in the presence of the court.

Attention needs to be drawn especially to the following section, which, however innocuous in appear-

ance, has given rise to a vast deal of vexation and injustice, and has caused the exclusion from citizenship of a large number of persons otherwise perfectly qualified and desirable:

Section 10. That in case the petitioner has not resided in the State, Territory, or the District of Columbia for a period of five years immediately preceding the filing of his petition he may establish by two witnesses, both in his petition and at the hearing, the time of his residence within the State, provided that it has been for more than one year, and the remaining portion of his five years' residence within the United States required by law to be established may be proved by the depositions of two or more witnesses who are citizens of the United States, upon notice to the Bureau of Naturalization.

It will become evident as we proceed that the interpretation which has been placed by the courts and the Naturalization Service upon the distinction between the phrases, "two witnesses," "at least two witnesses," and "two or more witnesses," has in practice caused a palpable absurdity from the point of view of common sense, and inflicted crying hardships and wrongs from the point of view of bare justice. Upon the humanity and good sense of the court, interacting with the same on the part of the representatives of the government, has depended to a very great degree the sensible interpretation of these and other provisions of the law; but in general both are bound by its letter, and in many instances they have been forced to reject petitions which, on the sane merits of the case, should have been accepted.

V

THE LAW IN OPERATION

COMMISSIONER CAMPBELL, in his annual report for the fiscal year ending June 30, 1914, described in some detail the operations of the field service of his Bureau in the handling of the applicant for citizenship:

The headquarters of the various districts are located in the large cities, where the greatest number of aliens apply for naturalization, and in the public buildings or in close proximity to the courts.[1] In many of the cities where the examiners are in the same building with the court, it is the practice of the alien to appear with his witnesses first in the office of the chief examiner. Here an examination is made in advance of any work in the office of the clerk of court. The examiners, specially trained in the work, first ascertain whether the alien arrived in the United States prior to the passage of the Act of 1906. If he arrived prior to the passage of the Act, the examiner then ascertains, before assisting him in taking the second step in the process of naturalization, whether the alien has a declaration of intention that has matured.[2] If he has arrived subsequent

[1] The division offices are located in Boston, New York, Philadelphia, Pittsburgh, Chicago, St. Louis, St. Paul, Denver, San Francisco, Seattle, and Washington, D. C., the last named being a division field headquarters, with a chief examiner in charge, as well as the site of the general headquarters of the Naturalization Bureau itself.

[2] That is to say, has been extant for at least two years, and, presumably, whether it has not expired by reason of having been extant for more than seven years—in which event it would be invalid by expiration.

to the passage of the Act, he ascertains whether the alien has been notified by the Bureau that the certificate of arrival required by law to be filed with the clerk of court at the time of filing the petition for naturalization has been placed there by the Bureau. It may be stated here that when an alien applies for a certificate of arrival, the Bureau notifies him when it has been obtained and forwarded to the clerk of the court selected by the alien in which to file his petition for naturalization, and he is directed to proceed with the filing of his petition at the earliest practicable moment.

Upon learning that the certificate of arrival has been obtained, the examiner interrogates the candidate to learn his qualifications for citizenship and records the results of his examination. He then examines the witnesses to be reasonably certain that they are American citizens, that they are credible and of good character, that they have personally known the applicant for the statutory period, and can intelligently testify both as to his residence and good behavior during the period required by the statute to be ascertained and shown to the satisfaction of the court.

The examiner also sees that the blank form furnished by the Bureau for setting forth the statements required to be embodied in the petition for naturalization is correctly prepared. When the examiner finds affirmatively in all of these respects, he marks the filled-out blank with his initials and sends it with the petitioner and his witnesses to the office of the clerk of the court, where nothing further is to be done than the simple clerical work of filling in the petition, original and duplicate, from the blank, securing the signatures and affidavits of the petitioner and his witnesses, filing the triplicate copy of the declaration of intention and the certificate of arrival with the petition, and notifying them as nearly as may be of the date of the hearing.

This method prevails in large cities where the examiners are located in the buildings with the courts. The advantage to the residents of these large cities, in the saving of time and money to the petitioners and their witnesses, is readily discerned when it is considered that probably fifty thousand applicants for citizenship annually might follow this course

if the conditions in each large center admitted of its being done. The advantage to be derived from having the candidate and his witnesses appear before the naturalization examiner in advance of his appearance before the clerk of court were early recognized by one of the United States district courts, where a large number of petitions for naturalization are filed annually, and an order of court was entered accordingly. In other courts, while the practice has not received this formal recognition, the consistency with which it is observed is none the less definite. This practice prevails in at least one city where the office of the chief examiner is not located in the building with the court.

Further emphasizing the advantages of this practice, the Commissioner remarks that it enables the examiner to dispose of a large number of cases, and tends to obviate denials on such grounds as "that the petitioner is already a citizen"; "incompetent witnesses," "insufficient residence," "no certificate of arrival," "declaration invalid," "premature petition," etc.—"unless, as is sometimes the case, a petitioner is obstinate and insists on taking his chance of admission by the court against the advice of the examiner." The Commissioner goes on to say:

> In some cities, by reason of the lack of proximity of the office of the examiner to that of the clerk of the court, the system does not prevail of having the candidate appear first before the examiner, . . . but efforts have constantly been made to augment the prevalence of the practice, and since the great bulk of the naturalization work is in the large centers . . . the plan described, with the restricted means provided therefor, admirably accomplishes the effective disposal of the mass of work arising under the operation of the law wherever it has been adopted.

Referring to the work in regions apart from the great cities, the Commissioner said, in his report for 1912–13:

In a few of the districts there are what may be called sub-stations, where an examiner is located by his chief to attend to work in the vicinity of such sub-station, . . . to reduce the travel expense and to bring the service in actual personal contact with the public and the courts as intimately as possible.

For the rest, and the far-outlying, sparsely-settled regions, where a person desiring citizenship must travel with his witnesses perhaps even hundreds of miles not once, but twice in any event, and in some cases several times, to and from the court having jurisdiction over the territory in which he lives, the situation is not so simple. To persons completing by the essential of American Citizenship their title to a homestead on the public lands—necessarily and characteristically in such sparsely settled regions—this item of travel, expense in both money and time for three persons, to say nothing of other hardships and exasperations involved in the meticulous technicalities of the law and practice, not infrequently is a raw tragedy. Neither provision by Congress nor administrative arrangement or concession in enforcement by the Naturalization Bureau or the courts has materially mitigated the hardships involved in such cases.

RESTRICTIONS OF RACE

Not every alien, whatever his character or good disposition toward the "good order and happiness" of the United States, or his willingness to "support and defend the Constitution and bear true faith and allegiance to the same," can become a citizen of the United States. He, or she, must be either white, or black—or, in the case of the American Indian, red. And if black, he, or she, must be of *African* descent. A long series of decisions has been necessary to define

exactly what races are excluded; with the result that it is now, for practical purposes, well established that naturalization cannot, under existing laws, be granted to Chinese, Japanese, Hawaiians, Burmese, or the black or brown natives of India.

It is not our province here to discuss the merits either of the racial limitation or of the somewhat vague definition that has been arrived at; it must suffice to outline the situation. The Naturalization Law of 1870 limited naturalization to "aliens being free white persons; and to aliens of African nativity and to persons of African descent." This was enacted in the tense days of Reconstruction after the Civil War, and was a natural but wholly unnecessary fling at the South. All American negroes are citizens of the United States by virtue of their birth in this country, and those who come here from Africa are likely to be incapable of passing the naturalization tests. Congress never has enacted a clear definition of the term, "white person," and endless confusion has existed. Hawaiians, Afghans, Chinese, Syrians, Turks, and Fiji Islanders, all have been admitted by some courts and excluded by others. The Commissioner of Naturalization at one time directed the field force to oppose vigorously the admission of any Asiastic. A non-Mongolian Turk, married to a white woman literally Caucasian, would be surprised to have his son excluded as not a white person; but such folk, and many others white by any common-sense definition, were excluded, the courts usually accepting as the judgment of experts the contention of the naturalization examiners; until finally the ruling was rescinded, and the matter has since then been left largely to the discretion of the courts, which have substantially settled the question so far as it may be settled in absence of a clear constitutional or legislative definition, such as exists

specifically in the Act of 1882 excluding the Chinese by name. As the law and decisions stand now, the same definition which will admit an African deckhand or cook excludes a Japanese prince or a Hindu university graduate.[1]

As for the Filipinos, it was held, in 1915, by the Supreme Court of the District of Columbia, that a Filipino is neither an alien nor an African, and that, therefore, he did not come within the provisions of the law limiting naturalization to white aliens, or black ones of African descent; that the Filipino then before the court could and would be naturalized under the section providing:

> That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States.

In another case (not, however, involving clearly the question of racial color) a native of the Philippine Islands, of full Spanish paternity, but of half-breed blood on his mother's side, was admitted by the same court.[2]

There was a dubious situation regarding Porto Ricans; for it was held at first that, when the United States acquired Porto Rico and the Philippines by the Spanish War, these peoples came under the "protection" of the United States, but did not thereby acquire status as citizens. The Act of Congress, March

[1] See Van Dyne, *Naturalization*, pp. 42–50; Moore, *Digest of International Law*, vol. iii, p. 329.

[2] *In re* Lopez, unreported; Supreme Court, District of Columbia, December 13, 1915. *In re* Fernandez, unreported; same court, September 24, 1913.

2, 1917, cleared up this situation, however, declaring permanently resident Porto Ricans to be citizens, unless they owed allegiance to a foreign country, or within six months after the passage of the Act specifically refused American citizenship. This Act created the judicial "district of Porto Rico," and definitely vested naturalization jurisdiction in the United States District Court for that district, declaring residence in Porto Rico to be tantamount, for naturalization purposes, to residence anywhere else in the United States.

The Act of May 9, 1918, which swept into eligibility for immediate citizenship upward of two hundred thousand aliens serving in the army, navy, marine corps, and merchant marine, definitely extended the privilege to several classes, including Filipinos and Porto Ricans, regardless of every consideration other than military service, and it has been interpreted in favor of even Chinese and Japanese in those branches of the national war employ.[1]

LIMITATIONS REGARDING AGE

The present law says clearly that an alien may not make a declaration of intention until he is eighteen years old. The old law contained a provision to the effect that anyone who arrived in the United States before the age of eighteen could, after he had been here the required five years, become naturalized by virtue of one proceeding, which was held to constitute both declaration and final petition. Otherwise, nothing was said in the old law regarding the age required for declaration; an alien must be twenty-one, however, in order to be naturalized. There was a good deal of uncertainty and confusion on this point, both the

[1] See chapter ix, on Military Naturalization.

Naturalization Service and the courts taking varying and inconsistent positions from time to time and in various jurisdictions. This is of only academic interest now; but the situation is still somewhat dubious, because an alien can file his declaration at the age of eighteen, and in a strict construction of the law he can file his petition two years later at the age of twenty. Some courts have so construed it. It is generally customary, however, for the courts to insist upon the age of twenty-one before granting citizenship; although one should bear in mind that citizenship does not necessarily involve the suffrage, and all states of the United States require attainment of twenty-one years before the citizen can vote.

THE DECLARATION OF INTENTION

So far as anything in the law goes to prevent, the immigrant can make his way immediately from the vessel that brings him, after the immigration authorities have admitted him to these shores, or across the Canadian or the Mexican border, to the clerk's office in "any court having a clerk, a seal, and jurisdiction over actions at law or equity, or law and equity, without limit as to amount," and within an hour of arrival file his declaration of intention to become an American citizen. Of course, he doesn't do that—unless in very rare instances. The available statistics go to show that, in the average case, he waits nearly seven (6.8) years.[1] But whenever he files it, it will be good (unless some blunder of the clerk, or some technical defect which the clerk overlooks, makes it invalid from the outset) for seven years. It cannot be made the basis of a petition for citizenship until two years after its

[1] See p. 237, this volume.

date, and there must have been, before or after its date, at least three years' additional residence in the United States to make up the required five years, and the last year of the five must have been passed "continuously" within the state or territory in which the final petition is filed.

Mr. Alien would better be very careful that his declaration is properly made out, on the identical printed form furnished by the Bureau of Naturalization; he must file it in the office of the clerk, and not deliver it to him at his house or on the street corner. He may not hear anything about this at the time; but seven years afterward he may be brought up standing by the fact that it is invalid because of just such a defect. In the case *in re* Brefo (217 Fed., 131–134) it was held, in 1914, that a declaration otherwise correct, but in typewriting, not on "the form furnished for that purpose by the government," was a "legal nullity." Were such an enormity permitted, the court said, there would be "an end to uniformity"; government control and supervision could not exist! And in the case *in re* Langtry (31 Fed., 879), as long ago as 1887 the court declared that the clerk had no authority to take acknowledgment of declaration of intention at the home of an alien. Numerous other cases in Pennsylvania, Illinois, Kentucky, North Carolina, Florida, have settled the fact that the clerk's office, or open court, is the only place where a valid declaration can be filed.

If the clerk is without the proper blank forms, because he neglects to keep himself supplied, or because the Naturalization Bureau at Washington fails to heed his request for them, there is nothing for the would-be declarant to do but go home—perhaps many, or in some cases as much as two hundred and fifty miles—and subsequently try again.

As has been said, he must be very particular about the words that he or anyone else writes on the blank when he does get it. If he files his declaration in a court which has much naturalization business, it is likely that the clerk or his deputy will see that it is letter-perfect; but if it is his fortune to reside in a district where naturalizations are few, or where the clerk regards the whole transaction as a nuisance, he may be permitted to make a fatal mistake or omission and remain in blissful ignorance of that fact for anywhere from two to seven years—until he goes before the court with his final petition and finds that because his declaration was from the beginning technically defective he must file a new one and wait at least two years more.

"DECLARATION INVALID"

This, in fact, has been a very common occurrence. During the period 1908–18, 8.5 per cent of all denials of naturalization petitions in the United States were on the ground of "declaration invalid"; that this percentage is made up of figures[1] tragically high in some districts may be recognized in the fact that in Nebraska it was 23.8, in Indiana 21.3, in Oregon 18.7, in Kansas 18.6, in Massachusetts 14.4, in Montana 13.2, in Iowa 12.5, in Arkansas and Idaho 11.3, in Washington 10.9, in Oklahoma 10.4. The petition of an Englishman applying for citizenship in Colorado was denied upon motion of the government's representative, because in his declaration seven years before he had renounced "King Albert," when, in fact, the name of the then potentate of Great Britain was "Albert Edward"![2] As the court in that case truly said:

[1] Compiled from the reports of the Commissioner of Immigration.

[2] District Court for Washington County, Colorado: *In re* William Wallace Mackey (1914). Unreported.

The act of renouncing the allegiance which one owes to a government or sovereign, and taking upon himself a new allegiance, is too solemn and important an act to be loosely performed, or to be surrounded by any uncertainty or doubt. No presumptions are indulged with respect to it. . . . The declaration of intention must in all material matters comply with the strict letter of the Act.

The court may not rectify *nunc pro tunc*, as in most other kinds of litigation, technical blunders made in good faith or inadvertently by the declarant, or even by the clerk of the court in which the declaration was filed. All the responsibility lies upon the alien.

In the unreported case of John Pollock, in the Philadelphia Court of Quarter Sessions, in 1915, the petitioner had honestly believed himself to have acquired German nationality from the flag of the German ship on which he was born, en route to the United States, of Russian parents coming here with intent to abandon their Russian nationality, and in his declaration had forsworn the German sovereignty; but the court held that the honesty of his mistake could not avail him—"Unfortunately it is impossible to amend his declaration; . . . the application must be denied." Through a misunderstanding of the intricacies of political geography in the then Austria-Hungary, a petitioner who actually was born under that sovereignty erroneously renounced the German Emperor. In that case, when, three years later, upon his final petition for naturalization, the court undertook to amend the declaration, its power to do this was denied upon the government's appeal.[1]

Five Austrians went in a body to the office of the clerk of the Court of Common Pleas in Hudson County, New Jersey, to file declarations of intention. Doubt-

[1] *In re* Friedl, 202 Fed., 300.

less they were very glad, and very grateful, to have the clerk on duty fill out the required blanks for them! Two years or more later, when they marched proudly and anxiously into court to complete their citizenship, their petitions were denied—"declaration invalid," because, forsooth, as the court in its decision explained:

> . . . The clerk who filled out their papers *assumed them all to be German*, and noted this in the declaration accordingly. The applicants contend that the error was a clerical error on the part of the clerk, and that their renunciation also included other sovereigns, rulers, or potentates. This, however, is not sufficient under the statute.

There are many other cases, in widely separated jurisdictions, to similar effect, showing, in general, that the courts sustain the contention of the Naturalization Service that the law does not permit the rectification of even innocent blunders in the declaration, no matter by whom or in what circumstances they are made.

Who, then, is to see that the technicalities thus insisted upon in the enforcement of the law as it reads are duly and truly observed? Surely not the alien! His care of his own interests is, in the nature of the case, ill-informed, and under the existing conditions, improved as they are in comparison with those prevailing in former times, he is at the mercy not only of the sometimes careless, begrudging, or perhaps well-intending, but better-informed clerk of court, but of many kinds of extra-legal assistants who, whether with good or with sordid motives, undertake to give, or maybe to sell, advice or instruction—to say nothing of pretended "influence" which, anywhere up to seven years later, when the mischief cannot be remedied, may turn out to have been worse than worthless.

Of vital importance and significance, far beyond what would be gleaned from a superficial reading of the words, becomes in this connection what the Commissioner of Naturalization said in his annual report of July 1, 1912:

The great bulk of the work of the Division [now the Bureau of Naturalization] consists of the examination of the naturalization papers filed in or issued out of the courts. It has never been possible, with the clerical aid supplied, to keep abreast of this work. Concluding the first year with a large number of papers not examined, that condition has grown more and more serious. . . . At the present time it must be stated that no examination of declarations of intention has been made since October, 1910, and not more than 30,000 certificates have even been examined. Correction of errors in the latter papers, [final] certificates of naturalization, are perhaps less necessary, but the declarations are used as the basis of petitions for naturalization, and defects in them may result in the denial of such petitions and a further delay of two years to the applicants for citizenship. Beginning with October, 1912, declarations which have not been examined will mature, and these aggregate 298,000 in number.[1]

That the Bureau of Naturalization is aware of the desperate importance of this matter to the aliens appears not only in so many words in the Commissioner's own utterances, but in legislation proposed by the Bureau which would tend to remedy it. In the same report (1912), after describing the strenuous efforts of the clerical force to catch up in particular cases with the dates of final hearings, Commissioner Campbell said:

To any easy assumption that errors in a declaration may be corrected at the hearing of the petition, the answer is

[1] By July 1, 1919, this total number of declarations unexamined had grown to 1,011,676. (See *Commissioner's Annual Report* for fiscal year ending June 30, 1919, p. 25.)

plain—that no change can be made if the declaration was filed, as it frequently is, in a court other than that in which such hearing is held. It has also been decided judicially that a declaration, complete in every respect, cannot be changed because of even conceded error in its averments. It is therefore important that the discovery by prompt administrative examination, of a defect, either in the way of omission or error, be brought to the attention of a declarant and the clerk of the court in which his declaration is filed, so that either the paper may be corrected or the declarant may file a new declaration, and thus save time, expense, and ultimate disappointment.

All of which has the color of mockery in the light of the fact that at the date of that report there lay in the files of the Bureau nearly three hundred thousand unexamined declarations, all of which would mature within the ensuing three months!

The legislative proposals to remedy conditions so far as inadvertent errors in the declaration are concerned, include, for instance, a proposed amendment [1] to Section 4 of the Naturalization Law, providing that

any averment required to be made in the declaration of intention that may be shown to have been made erroneously, but with no intention to violate or evade the requirements of the naturalization law, may be corrected by order of the court in which the declaration was filed, or by the court in which it is presented as a basis for a petition for naturalization.

SHOULD DECLARATION BE ABOLISHED?

Some belated survival of Commissioner Campbell's earlier belief, as a member of the Naturalization Commission of 1905, that the declaration of intention should be abolished as superfluous and as a prolific source of

[1] See bill (H. R. 9949) of Representative Johnson of Washington, Sixty-sixth Congress, First Session. October 15, 1919.

errors, appears in his concluding paragraph under this head, wherein, after alluding to the increasingly urgent appeals for more clerical assistance, which had characterized virtually every one of his reports since the establishment of the Naturalization Service, he adds:

> If the object to be obtained does not justify the additional expenditure that it involves, then the declaration, as a matter of common justice to applicants for citizenship, if not for the practical reasons stated . . . in the Report of the Commission of Naturalization to the President, dated November 8, 1905, should be stricken from the law. It may be suggested that the effect of such action upon the exercise by alien declarants of the elective franchise in certain states would be merely to cut off future supplies of such voters.

It is indeed true that many careful, experienced, and judicious students of the naturalization problem have on many grounds favored the abandonment of the declaration of intention. The arguments in this behalf are plausible while there are states in which aliens holding "first papers" (declarations of intention) are entitled to vote. As for the others, the reasons to the contrary seem to the present writer to outweigh them. Regardless of the suffrage, in many states the declaration entitles the holder to certain property rights; many employers, and even municipalities, require at least the declaration before they will permit employment. The best reason of all, regarded by a majority of the naturalizing judges as of vital importance, is that the declaration, and the interval of at least two years which must elapse before the declarant can file his final appeal for admission to citizenship, afford a period of probation, not only of substantial psychological value as affecting the alien himself, but giving the government opportunity to observe the conduct of the individual and to investigate his ante-

cedents, and the person's neighbors and the public generally due notice that he is an aspirant for active membership in the community.

On more than one occasion Mr. Campbell, who more than perhaps anyone else might be regarded as an expert on the subject of naturalization, favored the abolition of the declaration of intention. As late as 1910, testifying before the Committee on Immigration and Naturalization of the House of Representatives, he said:

I think I am on record as advocating the abolition of the declaration of intention, anyhow.

That this is no longer his view, or that of the Bureau, appears somewhat emphatically in the following excerpt of the annual report bearing his signature, for the fiscal year ending June 30, 1917: [1]

Many theorists in the United States, when there was no Federal supervision of the naturalization law, conceived the idea that the declaration of intention was a purely superfluous act; that the certificate of the declaration of intention was a superfluous document. Many of them still retain that idea, having made no advance in their studies, or being unacquainted with the experience of the Federal administrative force. There is nothing that has arisen in the experience of the Bureau of Naturalization, in the ten years of Federal supervision, that justifies this idea that the declaration of intention should be abolished.

The Americanization work of the Bureau, based as it is upon the declaration of intention, is the only point of contact the Federal Government has with the individual alien from the time he lands upon our soil. The use of the declaration of intention by the Bureau in sending the names to the public schools and bringing the aliens of every community into close relationship with them has forever settled the question of the value of the declaration of intention.

[1] *Report of Commissioner of Naturalization*, 1917, p. 75.

This is only a new use to which this "first paper" (an instrument which is peculiarly an American institution)[1] has been put. If this were the only use to be made of it, it would justify its continued existence. As it is, it is used and interwoven into the administrative fabric of the Government in its contact with aliens throughout the United States. It is a means of identification by which the alien makes known his right to take up Government land; by which he may secure employment in municipalities and in State improvement work; by which membership in many organizations may alone be secured. It is the indication of the announced purpose of the alien to forswear his allegiance to his sovereign and to choose the Constitution of the United States as his new allegiance. It is woven throughout the warp and woof of our national laws and our social and economic organizations.

NATURALIZATION JUDGES FAVOR ITS RETENTION

Of 323 judges of naturalizing courts all over the United States who answered definitely on this point the questionnaire of the Americanization Study, 241 opposed, more or less emphatically, the abolition of the declaration of intention, only 82 favoring its abolition on one ground or another, but principally because they were aware of no good purpose served by it.

One United States district judge rather picturesquely described its function:

> This country cannot afford to have it said that we are urging citizens of other countries to renounce their allegiance and take up citizenship with us. That would be wrong from every standpoint. On the other hand, if they do want to become American citizens, it is our duty . . . to help them fit themselves. If you take away the declaration of intention you will destroy our opportunity in that regard. The young lady who meets a young man and likes him, would be

[1] Mexico appears to be the only other country in which any such preliminary declaration and extended period of probation is required.

very much out of place if, without any other tie between them, she began to tell him what she wanted him to do, what she wanted him to study, and how she wanted him to study, what she wanted him to drink, and how she wanted him to dress. It would be very immodest and impolite, to say the least. If that young man had made her a proposal of marriage, and she were considering it, these suggestions from her would be entirely proper, and she would be performing her duty to the young man and to herself. This illustrates, I believe, the proper limits within which our country can guide, advise, and direct aliens who through the declaration of intention have made, as it were, a proposal of marriage, with reference to preparation for citizenship.

Sound objections to abolition of the declaration appear also in connection with the property rights as regards homestead entry and other matters under both Federal and state laws—a complicated matter in addition to the great confusion existing by reason of the laws of those states which conferred the right to vote upon holders of so-called "first papers." With the removal of this right, much of the objection to the declaration of intention disappears. As it was, under such laws, an alien might file a declaration of intention every seven years as they expired *seriatim*, and, without any proper inquiry, judicial approval, or supervision whatever, retain his right to vote—citizenship for all practical purposes.

Many of the judges would permit no renewal of a declaration after the expiration of the first; some would substitute registration upon entry, annual, or even more frequent reports by the alien regarding his whereabouts and behavior, and constant governmental *espionage*.

The declaration of intention, particularly if it be properly guarded and solemnized, puts everybody, at least constructively, upon notice that a new member is applying, and requires the declarant himself to keep that application in mind for two years. He cannot

suddenly decide, by reason of some special condition or inconvenience, to apply for citizenship and consummate the process in three months, as he could do if the declaration were abolished without extending the interval between petition and certificate. The defects in the present system are found in the fact that he can file his declaration anywhere at will, in a form so defective that two years or more later it nullifies his petition; he can be grafted upon and bled *ad libitum* by all manner of exploiters claiming to be able to assist him. However valuable in theory, in practice it is far too hit-or-miss.

The declaration should be surrounded by a very much greater degree of care and solemnity than at present. Not only should it be made under oath and on properly guarded printed forms; when it is filed it should be scrutinized and accepted as to substance, and by no means be subject long afterward to rejection because of clerical or other technical errors which ought to have been detected at the outset.

The St. Louis office of the Naturalization Service has taken a long step in this direction, by securing the co-operation of many of the courts in that district in the establishment of a custom by which the declaration is accepted for filing only after it has been viséd by the naturalization officers. This has no authority in law, but it nevertheless is a wholesome practice, chiefly in the interest of the alien declarant; incidentally it goes far to put out of business the various kinds of parasites who exploit the ignorance and helplessness of the aspirant for citizenship.

THE SEVEN-YEAR LIMITATION

The law of 1906 limited the life of a declaration of intention to seven years. Prior to that there was no

limit, and even after the passage of that Act it was held in practice that it did not apply to declarations made previously. But in 1913 the question was raised, in the United States Court in New York City, whether it was not the intent of Congress to apply the seven-year limitation to *all* declarations. In 1914 the court ruled that it was. The effect of that decision was to invalidate all declarations made prior to September 27, 1906, notwithstanding the express provision in the law that "no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States, shall be required to renew such declaration."

This decision was soon affirmed by the United States Circuit Court of Appeals; but even then it was not uniformly observed, until January, 1919, when the United States Supreme Court put an abrupt stop to the practice of accepting "old-law declarations" by affirming the decision of the District Court at New York.

The effect of this final ruling by the highest court in the land was tragic. Hundreds, if not thousands, of pending petitions, of aliens altogether fit from every other point of view, forthwith became invalid simply because based upon "old-law declarations" blighted by the newly applied seven-year restriction. In one session of the State Supreme Court in New York County a batch of more than seventy otherwise acceptable petitions was denied for this reason alone. The question of the effect of the decision upon certificates of naturalization granted theretofore between its date and September 27, 1913, was met by Congress in the Act of May 9, 1918, by the following provision:

Section 3. That all certificates of naturalization granted by courts of competent jurisdiction prior to December 31, 1918, upon petitions for naturalization filed prior to January

31, 1918, upon declaration of intention filed prior to September, 27, 1906, are hereby declared to be valid in so far as the declaration of intention is concerned, but shall not be by this Act further validated or legalized.

THE CERTIFICATE OF LAWFUL ENTRY

Assuming, now, that our alien is of the proper racial descent, the accepted age, and that his declaration of intention will pass muster; that he has lived in the United States for at least two years since the declaration was filed, and at least three years besides that—a total of not less than five years in all, including the final fifth year in the state—what must he do, and what may be done to him, when he comes up at last with his request for admission to Active Membership?

If he arrived in this country since June 29, 1906, he must produce a Certificate of Arrival. In theory, at least, all arriving aliens are registered at the port of entry by the Immigration Service of the Department of Labor. Under existing law they cannot get in at all if they are of certain excluded races and classes; if they are under contract to get a particular job; if they are insane or afflicted with certain diseases; if they are recognizable as anarchists, polygamists (or believers in either anarchy or polygamy), criminals, or, in the opinion of the immigration authorities, likely to become a public charge—a burden upon the community. They must, with certain exceptions for age and family relationship, be able to read and write in some language.

Aliens may properly enter the United States only through some officially designated port of entry, designated by the Commissioner of Immigration; if an alien enters elsewhere along our enormous border line he is deemed to be "unlawfully present," is subject

to deportation, and when he tries to become a citizen he must give a very good excuse for having "climbed up some other way." A good many Canadians and Mexicans have found very embarrassing, eventually, the fact of their ignorance or evasion of this requirement.

The Act of Congress, approved June 29, 1906, went into effect in most respects on the 27th of September following, but this provision was to take effect immediately:

> That it shall be the duty of the Bureau of Immigration to provide, for use at the various immigration statiors throughout the United States, books of record, wherein the Commissioner of Immigration shall cause an entry to be made in the case of each alien arriving in the United States from and after the passage of this Act of the name, age, occupation, . . . and the date of arrival of said alien, etc.

Unfortunately for the aliens subsequently embarrassed by the fact, the books for record of entries were not promptly installed, and in some instances since they were installed the immigration officials at the ports of entry have not always been scrupulous in the making of the required entries.

No certificate is given to the alien at the time of his arrival, even if he is properly registered; nothing of the sort is required of him anywhere; he does not have to show it when he makes his declaration of intention to become a citizen, nor at any other time or for any other purpose—until after he has been here at least five years and comes to the point of filing his petition for final naturalization. Then he must have it—unless he arrived before June 29th, 1906; in that event it is not required of him.

He is not to go for it to the Immigration Service. He must get it in the most roundabout fashion. He must address a written application, through the clerk

of the court in which his petition for naturalization is to be filed, to the Commissioner of Naturalization, who in turn requests it of the Immigration Service. The Immigration Service, if it can find the original entry (and sometimes—quite frequently in fact—it cannot), sends the certificate to the Commissioner of Naturalization, who sends it to the clerk of the court, at the same time notifying the alien that now he may proceed to file his petition.

But what if the arrival entry cannot be found? What if the alien cannot remember the name of the vessel, or other important facts relating to his entry, and thus give the necessary clews for the search? What if it was his misfortune to arrive at a port after the law took effect and before the registry system was in operation? Both the Immigration and the Naturalization Service take a good deal of pains to care for such situations; but frequently without success. All this involves delay, not only vexatious and discouraging, but likely to prove fatal in the case of an alien whose declaration is at the edge of expiration. Not infrequently an application for certificate of arrival is bandied back and forth between the two Bureaus for months.

There was a case in 1919 in which the alien described himself as having arrived on a certain date and vessel at New York; the immigration records showed no such arrival, and, what was worse, no such vessel entering New York at that time. After long delay it turned out that the alien did arrive on that date and vessel, but at *Boston*, whence, upon admission, he came by a domestic coastwise vessel from Boston to New York. Many other cases are by no means so simple.

A petition accepted for filing without the requisite certificate of arrival is regarded as incomplete, and may not be completed subsequently by attachment of

the certificate, but must be marked "spoiled"; the four dollars paid as fee may be returned to the petitioner by the clerk, or can be applied to the filing of a new and sufficient petition. It has been the practice of the Bureau of Naturalization, after it appears impossible to find record of the applicant's admission to the country, to refer him to the nearest immigration inspector for what is known as a *nunc pro tunc* inspection, for the purpose of satisfying the inspector that the alien should not be deported as "unlawfully present." If the inspector is satisfied, he issues what is known as a "provisional certificate of arrival," whose acceptance as sufficient for purposes of naturalization is subject to the discretion of the court. This would appear a reasonable way out; but in the case of petitioners living a very long distance from the office of an immigration inspector, it involves an extra, and perhaps prohibitively expensive, journey to the distant city for that purpose alone, and this difficulty has in fact been to some extent relieved by permission to handle such cases by correspondence and affidavits.

THE VEXATIOUS QUESTION OF NAMES

Another obstruction goes to the question of our treatment of the foreign-born laborer in industry—especially if he bear what we choose to regard as a "queer" name, difficult for us to spell or pronounce. The courts have, properly, no doubt, no patience with assumed names—particularly in a case where the alien cannot remember the name under which he entered the country. But it is a very common practice, in concerns employing a large number of immigrants, for the minor officials of the company, superintendents and foremen, to attach a name to a job, and insist upon calling the man who occupies it, "Mike Murphy," or what not

else, because that was the name of the first incumbent, and it is easier to pronounce than "Bahaoud," "Behrensmayer," or "Przybylski." This, and the even more common practice of calling a man by a number, rather than a name, results in a vast deal of confusion, in a substantial discouragement of self-respect, and in the ultimate establishment of the neighborhood identity of a polysyllabic Greek or Armenian, perhaps, with a fine old Irish name. This will not do in the naturalization court. The petitioner must come in under at least the same name that he bore when he entered the country, and there must be no suspicion as to its not being his own.

But he does not have to keep that name. It is prescribed as lawful for the court in its discretion, "at the time and as a part of the naturalization of any aliens, . . . upon the petition of such alien, to make a decree changing the name of said alien." The fact of which the court must be convinced is that the petitioner is not attempting to conceal his real identity for the purpose of escaping payment of just debts or punishment for crime. Many aliens do thus change their names, and there have been cases in which the judge virtually compelled them to do so.

A naturalization judge said to the writer:

> I have heard of a high-handed old judge, somewhere in the Northwest, who was in the habit of "suggesting" to every alien who came before him with a complicated mouthful of name that he change it to "Abraham Lincoln," "Benjamin Franklin," "George Washington," or "Grover Cleveland." No doubt you could find many a Pole or Swede naturalized as "Thomas Jefferson" or "Alexander Hamilton," whose father, living in the same town, was known as "Konrad Kowalewski," or "Ole Johanssen."

Each nationality has in this country name-complications of this character peculiarly its own. The

Swedes, for an example, have a habit of taking for their own surname the Christian name of a favorite aunt, uncle, or other relative, upon reaching the age of twenty-one years. Sven Svensen—which means "Sven, the son of Sven"—may undertake to compliment his uncle Olaf by calling himself Sven Olafsen. Suppose he came to this country under the name of Sven Svensen, before he was eighteen; but for several years before filing his declaration came to be known to everybody—including himself—as Sven Olafsen, and regarded his old name as a "childish thing" of no consequence to anybody. He applies as Sven Olafsen for his certificate of arrival, the immigration and naturalization bureaus have great difficulty in finding it, and when it does come along it is in the name of Sven Svensen. Often names are adopted in affectionate memory of the town from which the alien comes. Many Italians, for convenience, drop off a couple of syllables of awkwardly long names. Among the Greeks a typical case would be that of one, "Harris," whose old-country name was Harralabopoulos.

Another kind of complication appears in the case of an alien whose true name was Isaac Brody; but he came on a steamship ticket issued to, and in the name of, his uncle, Isaac Boovris, and was recorded under that name by the immigration authorities. When he filed his declaration of intention he was advised to file under the name Boovris, to facilitate his certificate of arrival when that should be required. When he filed his final petition, after living and doing business for several years in this country under his true name of Brody, he asked to be naturalized under that name. The court refused, requiring him to file a new declaration as Isaac Brody and wait two years longer, calling attention to the penal statute which makes it an offense to apply for naturalization under an assumed or fictitious

name; remarking that the court might have changed the name or amended the petition "if the error in the original declaration had been clerical, or had been innocent." [1]

A Pennsylvania court said in the case of one Wicenty Pilipos, who after arrival informally changed his name to William Phillips:

> We may concede that any person may change his name, and be naturalized under his new name; yet, if he does so, he must petition the court for that purpose, so that the record will show the whole transaction, and identify him as the person who has discarded his original name, under which he landed in this country. This is especially necessary to prevent any other person from perpetrating a fraud, by being naturalized under the discarded name.[2]

THE PETITION FOR NATURALIZATION

There are other technicalities with which the alien occasionally collides—such, for example, as the question of jurisdiction where there is a difference of definition in the term "judicial district," or where boundaries may conflict between states, counties, or other distinct municipalities, with reference to the alien's place of residence; or where the court to which he could naturally and conveniently repair by the shortest line of travel is in another jurisdiction, and he and his witnesses must journey perhaps even hundreds of miles to the court to which the letter of the law compels him to go. Such cases are numerous, but comparatively uncommon. Let us assume that he has reached the right court, has successfully unearthed, through the clerk, the Naturalization Bureau and the Immigration Serv-

[1] *In re* Boovris, 205 Fed., 401.

[2] *In re* William Phillips (1913), Court of Common Pleas for Schuylkill County, Pennsylvania. Unreported.

ice, his proper certificate of arrival, and has a valid declaration of intention. What next?

In large cities or other places reasonably convenient in respect of distance, the clerk is likely, as the Commissioner of Naturalization says in his report already quoted, to send the alien to the office of the Naturalization Service; there is filled out the "Facts Form," as it is called, on which the final petition for naturalization is to be based. The petitioner is closely interrogated as to his general eligibility, and the principal business is under way. If the naturalization office is far distant, the petition is filled out by or in the presence of the clerk.

As required by the law quoted at the beginning of this chapter, the petition must set forth the full name, residence, occupation; date and place of birth; port of emigration; name of vessel, if any; port of arrival; date and court of declaration of intention; whether married, single, or widowed; wife's name, nativity, and present residence; number, names, birthplaces, and residences of minor children; assurances that the applicant is not a practicing or believing anarchist or polygamist; intention to renounce former national allegiance and make permanent residence in the United States; attachment to the principles of the Constitution; ability to speak the English language; dates upon which began residence in the United States and in this state or territory; assertion that this is his first petition for citizenship, or, if a former petition was denied, the reasons for denial and the fact that these reasons have since been cured or removed.

In addition there must be the affidavit of two witnesses (each of whom must swear that he is himself a citizen of the United States), who must declare on his oath that he knows the petitioner to have been a resident of the United States at least since a certain speci-

fied date five years ago, and of the particular state at least since a certain specified date not less than a year ago; and that he personally knows the petitioner to be a person of good moral character, attached to the principles of the Constitution, well disposed toward the good order and happiness of the same, and generally qualified in every way to be admitted as a citizen of the United States.

To the petition *at the time of filing* (that is rigidly required by the law and the decisions of many courts) must be physically attached the declaration of intention made at least two years before, and the certificate of arrival.

For filing the declaration of intention the alien will have paid to the clerk a fee of one dollar; upon filing his final petition he has to pay another fee of four dollars. There are strict penal provisions in the law for the punishment of clerks who charge or collect any more. Under the law, one-half of each fee is retained by the clerk, ostensibly for the purpose of reimbursing him for such additional clerical assistance as the naturalization business may necessitate, but not always used for that purpose. This subject is discussed elsewhere.

The petitioner, with certain exceptions noted below, must sign his petition in his own handwriting. It is, however, usually permitted him to sign it by "his mark," properly witnessed, and even this was not required of those who filed their declarations of intention before the passage of the Act; but lapse of time has made that no longer a practical exception. It has usually been held that a signature, even in another language, such as Arabic, is sufficient. There has often been controversy as to whether the extraordinary arrangement of marks constructed by the petitioner is in fact a signature, the author insisting that he has achieved one when it is utterly illegible to both judge

and naturalization examiner. In this, as in a host of other details, the fate of the petitioner hangs upon the intelligence and humanity of the judge, who has to choose between a strict insistence upon the technicality and a more generous adjudication—in a case, for example, in which a poor old deaf woman homesteader might lose all she has in the world simply because he cannot see an intelligible "signature" in the conglomeration of hieroglyphics which she intends to represent her name.

The law requires the petitioner to state the name, nativity, and residence of his wife, if any, and each of his minor children. The wife, if she herself can lawfully be naturalized, becomes *ipso facto* a citizen of this country by virtue of the naturalization of her husband. It is the practice of many naturalizing courts to decline to admit to citizenship men whose wives are still in the old country, seeing danger in conferring the status upon women who may never come to the United States, or who, coming, may turn out to be undesirable.

The petition must disavow belief in the so-called principles of anarchism; under the law no one can be naturalized who himself believes in or teaches or belongs to any organization or groups believing in or teaching "the duty, necessity, or propriety" of abolishing organized government, or "the lawful assaulting or killing of any officers, either of individuals or officers generally, of the government of the United States, or of any other organized government, because of his or their official character." Some judges of naturalizing courts recognize little distinction between "anarchy" and "Socialism." The United States Circuit Court of Appeals, however, was more discriminating, reversing the naturalizing court in the somewhat famous case of Leonard Olsen at Seattle, who was rejected, ostensibly, on the ground that he was not "attached to the principles of

the Constitution," but really because he avowed himself a Socialist. There had been a somewhat similar case in Texas, in 1891, but the Olsen decision settled the question of the lawfulness of Socialist views as affecting naturalization.[1]

Both the declaration of intention and the petition for naturalization are made out in duplicate; the original becomes a part of the record of the court in the clerk's office; the duplicate is sent to the Naturalization Bureau at Washington.

NINETY DAYS' INTERVAL BEFORE HEARING

Notice of each petition must be posted in a public and conspicuous place in the office of the clerk for at least ninety days before the hearing is had in open court. The Naturalization Bureau will have been informed directly by the clerk; the purpose of the posting is, of course, to give the public notice, so that anyone who desires to do so may appear with objections. In actual effect, the posting is without much value, because the public does not visit the clerk's office except upon business of its own, and there is no other publication of the petition, save in such rare cases as local newspapers make it a matter of news. It may be injurious to the petitioner, because a good many hearings have been postponed simply because the clerk forgot to post the notice at all!

THE FINAL HEARING IN COURT

Petitions may be heard only upon stated days, fixed by rule of the court, so that the government and the public

[1] See *ex parte* Sauer, in note to 81 Fed., 355 (District Court, Uvalde County, Texas, 1891). See also United States *vs.* Olsen 196 Fed., 562.

may attend the open hearings which are required by the law. This works smoothly and well enough in the great cities, where most naturalizations take place; but there are districts, in sparsely settled regions, where there is but one term of the court in a year; which, in practice, means that the judge cannot be sure of being at any given point on any days determinable in advance, except the opening day. In such cases a great many courts will have but one hearing period in a year—usually on the first, and perhaps the second, day of the term. Two hardships may arise from such a situation; the alien and his witnesses may be uncertain as to the length of time they must wait after a long journey to the county seat, and if the clerk is careless and fails to notify the petitioners that their cases are to be heard (a thing which happens all too often) the judge and examiner are on hand, but no one appears to be naturalized, and another year is lost before the cases can be disposed of. That this can be a matter of very serious import to the alien may be illustrated by the fact that a group of Poles were classed as "nonresident aliens," and subjected to the very heavy income tax collected of such, simply because the clerk of the court in which their petitions for naturalization were pending failed to notify them of the hearing day.

MUST "SPEAK" THE ENGLISH LANGUAGE

The applicant must be able to "speak the English language"—this is required by the law. It is enforced with a great variety of degrees of strictness. Many an alien can understand what is said to him in English long before he has gained facility in speech. Also, in the majority of cases, especially where he is confronted by a stern and perhaps hostile judge, or one disposed to treat immigrants with contempt or ridicule, and a

fiercely zealous naturalization examiner bent upon having the petition denied if possible, he is promptly tongue-tied by stage fright. It is common for the petitioner to tell the court, through his witnesses or the interpreter, that he knows what a certain question means and the answer to it, but cannot express it in English. Many of the questions call for a simple "Yes" or "No," but a frightened or unintelligent applicant, who has learned certain things by rote, may glibly answer "Yes" to the questions which ought to be answered by "No," and vice versa. There was a fellow in Leadville, Colorado, who for a long time occupied the status of witness for nearly all the Austrians who applied in that place for naturalization, and who to a large degree superintended their training for the examinations. After a while it was discovered that he had a system by which he dictated the answers to the questions, kicking the petitioner in the ankle when the answer should be "Yes," and nudging him with his elbow when it should be "No."

Both judges and examiners vary greatly in their interpretation of what constitutes ability to "speak English." Some give the petitioner the benefit of doubt and make large allowance for natural embarrassment and fright. Others, as one judge frankly says, "construe everything against the applicant," on the ground that citizenship is a precious privilege which should be accorded to as few as possible, and only to those about whom there can be no question. The court may accept a grunt, a shrug, a gesture, a shake of the head, as indicating a sufficient understanding of the question.

Generally the judge is humane. There was a case in Arizona in which a mild-looking Mexican insisted that he was both an anarchist and a polygamist—plainly showing that he imagined the terms, about which he was sharply asked, to represent qualities which he must

possess. The judge knew the man; that he was of good conduct, conventional ideas, and married to one wife.

"How many women are you married to?" he asked.

"Oh, only one!" cried the man, adding for good measure, "maybe one is too many!"

"Would you kill a man you didn't like? Would you blow up a house, or shoot a sheriff?"

"No, no, no! Me never kill nobody! Me never blow up nobody's house! Me never hurt nobody!"

Between the morning and afternoon sessions of the court the Mexican was quietly interrogated and readjusted, and the court admitted him. In thousands of cases, not so picturesque, the applicant called upon for relatively elaborate views about theories of government, and even more abstruse matters, is either bewildered or on general principles deems it safer to remain silent; in which case the impression of the court, and his action upon it, depend very much on the personal equation, the humanity, and common sense of the judge.

A deaf-mute is exempt from the requirement of ability to "speak" English; so is an alien who has made entry for a homestead on the public lands. The latter can make his entry immediately upon filing his declaration of intention; but he cannot complete his title until he is fully naturalized. A few courts virtually ignore this exemption, and require the homesteader to speak English and pass the other educational tests. Generally the judges are lenient with such people.

The law does not require the applicant to be able to *read* English; but there is an increasing tendency in the courts to require it regardless of the law. After all, the judge is the final arbiter; he must be satisfied that the applicant is "in all respects qualified to be a citizen," and, if he chooses to regard a person who cannot make sense out of a current newspaper as not thus qualified, he can deny the application on general principles. The

whole matter of educational qualifications varies widely in different jurisdictions, largely because of the absence of a definite standard of knowledge, intelligence, and general ability established either by Act of Congress or by the Naturalization Service.

ATTACHED TO THE CONSTITUTION

The applicant must be "attached to the principles of the Constitution," and "well disposed toward the good order and happiness of the United States." Can a man be "attached to the principles of the Constitution" without having read it? If not, then the vast majority of the native-born citizens of the United States are not so "attached," for it is a matter of the most notorious fact that very few Americans, not professional lawyers, ever have read it or could pass the most rudimentary examination upon its substance. There is, however, a widely prevalent tendency on the part of the courts to require petitioners not only to swear that they have read the document, but to pass a pretty stiff examination, either before the naturalization examiner who may certify the fact, or even in open court. And it is upon the phrase "attached to the principles of the Constitution" that the Naturalization Bureau has erected its whole elaborate and ambitious campaign of education for citizenship. But its interpretation is so vague and unsettled, so subject to the whims, theories, prejudices, and intellectual limitations of the individuals upon whom its enforcement devolves, that it seems highly desirable for Congress to establish by law definite and simple requirements embodying the minimum qualification to be demanded of applicants for citizenship to demonstrate both their understanding of our form of government and their "attachment to the principles of the Constitution."

One of the classic anecdotes of the Naturalization Service has to do with this matter of attachment to and understanding of the Constitution. In the court of a judge who insisted upon every petitioner having at least read it, an Irish petitioner at the morning session of court was ordered to read the Constitution, or have it read to him, and to come back in the afternoon for further hearing.

"Well, did you read the Constitution to him?" demanded the judge of the citizen who was acting as mentor of the petitioner.

"I did, your Honor; I read it to him—all of it."

"Is he ready to swear that he is attached to the principles of it?"

"He is, your Honor; when I got through readin' it to him he said he thought it was a blame fine Constitution."

What more could be asked—even of a native?

An Italian petitioner in one of the Southern courts exhibited a good knowledge of current political history, and at the same time a realization of his own limitations.

"Who is the President of the United States?" asked the judge.

"Mist' Wilson."

"Who is the Vice-President?"

"Mist' Marsh'."

"If the President should die, who would take his place?"

"Mist' Marsh'—he's ready for that job."

"Very good, Tony, and quite correct. Now, let me ask you something else. Could you be President of the United States?"

"Oh, no! no! Judge, please!" cried the dismayed petitioner, "you have to excuse me! I'm too busy!"

IN THE MATTER OF "CONTINUOUS RESIDENCE"

The fact of continuous residence within the United States for five years, and within the particular state for

one year next preceding the filing of the petition, must be established to the satisfaction of the court. To the layman this would seem simple enough; but there is hardly anything connected with the process of naturalization about which there has been so much variety of interpretation. What constitutes "continuous residence"? It is said that a court in Utah disqualified an applicant because once during the five years he stepped across the Canadian border far enough and long enough to buy a sandwich! Shall a man lose his "residence" because of a walk across the International Bridge at Niagara Falls? Suppose he is a carpenter, or a farm hand, and goes over into Canada, or Mexico, for the summer months, or long enough to build a house? Suppose there is an estate to be settled up in the old country, or that the alien's aged mother is dying in Copenhagen or Buda-Pesth, and yearns to see her son once before she goes. Shall that invalidate his residence? There are many judges who will not tolerate any absence whatever from the country, on any pretext.

In the great bulk of practice, however, it has simmered down to the question of "intention." Reasonably carried out, as in other matters, it meets the average case. If the petitioner always, and everywhere, during the five years maintained his intention in good faith to become a citizen, and especially if he preserved a specific residence, both the courts and the Naturalization Service on the whole have waived the literal words of the requirement. But within that general situation there are degrees. There are judges who will permit an absence as long as two years, if "intention" is clear; some set a limit of one year, others of six months. Generally speaking, any absence in excess of six months is viewed with suspicion.

There are two reasons, as the law stands, for insistence upon residence virtually continuous. In the first place

there is the wording and evident intention of the law, which must be obeyed in spirit, anyway. In the second place, in case of any protracted absence, the witnesses hardly can know what he has been about, and certainly cannot swear, as they must under the statute, to the fact of continuous residence. If the petitioner has been out of the ken of his witnesses in some other part of the United States, he can prove good conduct and American residence by depositions; but the law does not contemplate depositions regarding his conduct on any foreign soil, however legitimate his reason for being there. And if he has been in other parts of *the same state*, he cannot prove anything about it, by witnesses, depositions, or otherwise.

THE ABSURDITY OF THE "INCOMPETENT WITNESS"

This brings us to one of the most extraordinary provisions of the law—that regarding the proof of eligibility by witnesses and depositions—a provision responsible for the exclusion of thousands of perfectly fit persons, and for a vast deal of wholly unnecessary hardship and injustice.

During the eleven years 1908–1918 inclusive, according to the statistics given in the annual reports of the Commissioner of Naturalization, of 107,484 petitions for naturalization denied, more than one in four—28,262, or 26.3 per cent—were denied on the ground of "incompetent witnesses." The percentage in many states is very much larger than that: Illinois, 38.3; New Jersey, 37.2; Michigan, 36.5; Iowa, 36.4; Nebraska, 36.0; Kansas, 35.9; Colorado, 32.8; Arkansas, 32.4; Oregon, 32.2; North Carolina, 31.9; Indiana, 31.1; Wisconsin, 31.0; Missouri, 29.5; New Mexico, 29.3; Kentucky, 28.8; Montana, 28.4; Utah, 27.0. The low states in this respect are few—Rhode Island,

5.9; New Hampshire, 8.0; Connecticut, 9.0; Vermont, 9.1; Massachusetts, 9.2; South Carolina, 11.4; Florida, 11.5.

Now, what does this mean in human terms? To begin with, a petitioner for naturalization may not prove his eligibility, as he would prove any other set of facts in court, by such an exhibit of evidence of various kinds as would satisfy a reasonable judge or jury. He cannot bring a group of neighbors who have known him; his employer, his priest or pastor; the village schoolteacher who teaches his children; a sheaf of affidavits from people who have known him in various places where he has lived in the state. His exhibit of evidence is rigidly and most absurdly restricted, and the restriction is of no benefit to anybody—except, perhaps, the Naturalization Service in somewhat simplifying their work of investigation.

His petition must be accompanied by the affidavits of precisely *two* witnesses, who must accompany him personally when he files his petition, and must accompany him again, ninety days or more later, when his case comes before the court for hearing. *Two, only two, and the same two.* Only in case one of them dies, or moves out of the jurisdiction of the court, is he allowed to substitute. Each witness must be a native or naturalized citizen of the United States, and must swear to that fact. And each must swear that he has known the petitioner during the whole period of five years of residence within the state, or of one year in the state if he lived previously in other states, and satisfy the court that he has seen the petitioner frequently enough to know that his residence has been continuous and his conduct such as to warrant his admission to citizenship. Some judges require the witnesses to have seen the petitioner virtually every day, "constantly, as a neighbor"; "at least once a week," for five years. The

examination of the witnesses is frequently more severe, if possible, than that of the petitioner himself; for the law requires them to be "credible." If a witness can be shown by the naturalization examiner to be of dubious moral character, the court probably will deny the petition verified by him, and leave the petitioner with only one witness. He must have two, and he cannot substitute a better one!

In a state which has allowed aliens to vote upon their declaration of intention, innumerable foreign-born persons have in good faith believed themselves to be citizens. If such a person appears as a witness for a petitioner, the petition is denied—properly enough, except that the petitioner might easily produce a substitute who could not be objected to; but no, he must have not only exactly two, but *the same* two, throughout the proceeding. Or, if one or both of these particular witnesses turn out to be honestly mistaken in thinking they have known the petitioner for the whole five years; if, for example, it turns out that they could not have known him more than four years and nine months—the petition is denied; "incompetent witnesses." In the fiscal year ending June 30, 1918, more than 2,300 petitions were denied for this cause, and it is safe to say that, in a very large majority of the cases, the witnesses were acting in perfect good faith.

The practice cuts very close. *In re* Welch (159 Fed., 1014), decided in 1908, reports a case in which it was shown that a witness had not known the petitioner for five years at the time of the filing of the petition, but had known him for five years by the time the hearing was had. In that case the court permitted amendment of the date of the petition, but required a fresh posting.

Congress took note of the difficulty an alien might labor under if he were obliged to move about from

state to state during the five years' period, and provided that four years of the time, in the event of inability to bring witnesses who could swear to knowledge of the whole period, the applicant might prove residence, etc., *in other states* by deposition. This helps a good deal, as far as it goes; but in any event the last year, the year of residence required to be within the state where the petition is filed, must be covered by "two witnesses"—*two, only two, and the same two.* Suppose the case (and there have been many such) of a Methodist minister, an Englishman if you please, who, during the five years preceding his petition, has been assigned to two or more pastorates within the same state at points more or less distant from each other. He could produce almost any desired array of witnesses to cover his residence in each of the several places, and affidavits galore; but he must not. There is virtually no chance at all of his being able to find two, only two, and the same two, who can testify to personal, neighborly knowledge of his residence in all places. What, then, of an average immigrant who has been obliged to shift about in search of employment, resident all through the year in the state, but never staying long enough in one place to establish intimate relations with possible witnesses under such restrictions?

JUDGES DENOUNCE THE ABSURDITY

The judges are all but unanimous in their denunciation of this system. The comment of a United States district judge in the Middle West represents the sentiments of most:

> I do not think it tends to raise the standard of citizenship or to do anyone any good to have the requirements such that, if a petitioner has lived in the state for the full five-year period, he must prove that entire residence and his good

character and reputation during that entire period by the two petitioning witnesses. The two petitioning witnesses should have known him for at least a year, and be able to make a showing for at least the last year of the period. I know of nothing so sacred about a state line that this great difference should be made between the petitioner who moves here from another state and the petitioner who moves here from a distant part of the same state.

A Michigan judge gives a striking example of the injustice of the discrimination:

The greatest copper mines in the world are in the Upper Peninsula of Michigan. The greatest automobile factories in the world are in the city of Detroit in the same state. These sturdy miners of Houghton and Keweenaw counties in the Upper Peninsula hear of the automobile industry in the city of Detroit, and after three or four years' residence up there, move to Detroit and take up residence there. Under the present law, they must find two witnesses who have known them for the entire five years. You will recognize how difficult it will be for them to find two witnesses who knew them in the Upper Peninsula, moved to Detroit when they did, and have known them ever since. The copper mines of the Upper Peninsula are five or six hundred miles from Detroit. Can anyone suggest any good reasons why these petitioners in Detroit should not be permitted to prove their Detroit residence by two witnesses who sign their petitions, and their Upper Peninsula residence by depositions or other witnesses? Why punish so unnecessarily the man who continues to reside for the full five years in the same state, while we justly permit another man, who moves here from another state, perhaps a distance of fifty or a hundred miles, to make his proof as to that state by deposition?

Mind you, I would make them prove their residence in the particular city or county . . . for the full period of their residence there, by the two witnesses who signed the petition; and, of course, I would require them to have resided in such municipality for at least a year.

Says one judge:

In the far West, where the distances are so great and the expense of travel such a hardship, the matter might readily be handled on a mileage basis, so that the petitioner would prove a year's residence by the witnesses who attest his petition, and a previous residence within the same state more than, say fifty miles, from the place of holding court, by depositions.

Of 334 judges of naturalizing courts in all parts of the country who specifically addressed themselves to this question in reply to a questionnaire of the Americanization Study in the summer of 1919, only 34 were content with the present system; 289 specifically favored amendment of the law for the reasons, and to the effect, substantially as suggested above.

A clerk of court in Arizona who handles the naturalization business, and in his letter displays a keen and intelligent interest in the human aspects of the question, says:

I have had numerous petitioners who, for ordinary purposes, could prove every day of their residence in this state; but for naturalization purposes were unable to prove their residence, even though the entire five years may have been —and in some instances has been—in this one county! I consider it inequitable for the reason that the man who travels from mining camp to mining camp may reside four or more years in any number of states, and at any number of camps in each state; but, if he then removes to another state and resides in that state one year, he may obtain citizenship. Yet the rancher who resides five years in one state, or even in one county, but during the five years resides in two different localities of the state, or even on two different ranches in one county, may be (and under the present law frequently is) deprived of citizenship for the reason that two witnesses, only two, and each of these two, must prove the continuous five years' residence.

I some time ago became convinced that this provision of the law was not equitable, and in January, 1919, wrote to our Congressman in the hope of convincing him and getting a bill introduced to remedy it. He thought it too late in the session to attempt it, and that it would be useless to attempt it without the approval of the Department of Labor, which approval was withheld.

Nevertheless, it is to be presumed that the Bureau of Naturalization did approve (since the proposal was embodied in the same bill containing one of its attempts to secure a notable extension of its powers)[1] a measure of concession in the matter of witnesses.[2] A proposed amendment to Section 10 of the Naturalization Law would provide:

That in case the petitioner has resided in two or more parts of the county in which he resides at the time he files his petition, and for this cause is unable to procure two witnesses, who are citizens of the United States, who are qualified and competent to establish the entire period of his residence in such county, he may establish his residence at each of the places in such county by the affidavits and testimony of at least two witnesses, citizens of the United States, to each place of residence, both in his petition and at the hearing.

The same bill would have mitigated and, so far as it went, humanized the restriction upon substitution of witnesses by adding to Section 4 a subdivision providing that

Where either or both of the original subscribing witnesses to a petition for naturalization, or those giving evidence by deposition in support thereof, shall be found to be incompetent or not qualified to establish the proof of residence, good moral

[1] These efforts of the Bureau to augment its scope and authority are discussed in this volume, p. 180 *et seq.*

[2] See H. R. 9949, introduced by Mr. Johnson of Washington, Sixty-sixth Congress, First Session.

character, or other evidence required by law, the petitioner may substitute other qualified and competent witnesses at, or prior to, the final hearing. The hearing of the petition may be continued for this purpose and the names of the substituted witnesses may be ordered publicly posted, in the discretion of the court, if such posting shall be deemed necessary. Any petition for naturalization may be amended to correct manifest errors appearing therein and made in good faith.

DEPOSITIONS OF WITNESSES

Mr. Raymond F. Crist, then Deputy Commissioner of Naturalization, in testimony before the House Committee on Immigration and Naturalization, prior to the enactment of the Act of May 9, 1918, stated that the Naturalization Service was habitually represented at the taking of the depositions by which a petitioner is permitted to prove his residence in states other than that in which the petition is filed. This must have been a slip of the tongue, for it is very far from being in accordance with the facts. Such a course would be a physical impossibility, especially in the present and past short-handed condition of the field service. As a rule the notaries public who attest these depositions are designated by the several chief examiners; but many of them are in small places, to which examiners never go. In point of fact, in most cases, the depositions are not viséd in any way whatever, so far as the naturalization machinery is concerned, or examined at all until the judge reaches the particular case. They go direct from the notary to the court in which the petition is to be heard, in a sealed envelope which is not expected to be opened until the day of the hearing—unless the court has, by specific order, authorized the naturalization officer to open and examine them. A very considerable number of them—one person familiar with the practice estimated the percentage as high as 75 per

cent—are defective in some particular; the same authority thought at least 40 per cent of them would be so defective as to render them, under strict construction, inadmissible as evidence. For example, they will fail to assert that the deposing person has known the petitioner during the required period of time; or will not say, categorically, that the affiant is himself a citizen of the United States. As a rule, it is not until the affidavits are examined in open court by the judge or examiner that their insufficiency is disclosed, for the first time, to the petitioner. He may not be admitted until the papers have gone back for correction, or a new set prepared. That sometimes means a delay of six months, a year, or even longer—a very serious matter to a petitioner upon whose naturalization may depend his title to a homestead. There is nothing in the law prescribing the method of handling this matter; it is subject to regulation by the Bureau of Naturalization in its discretion; and inasmuch as the Naturalization Service declares itself, and ought indeed to be, the friend of the petitioner, guarding him against errors which may invalidate his whole effort and lead to the cancellation of his certificate even after he gets it, it ought to devise some procedure for examining every deposition. No petitioner should be allowed to come into court until his papers have been scrutinized, at least for technical defects. In certain districts of the Naturalization Service this has indeed been the practice in an informal way and to a limited extent. It would seem that it ought to be invariable. The Service has done excellent work in shutting out all manner of runners, professional witnesses, and other kinds of pseudo-assistants to the alien; this has left him in the matter of depositions, as a general rule, without well-informed, disinterested, or intelligent guidance, with the result that he has no adequate warning against

defects, either important or trivial, which may vitiate his application. When he comes into court, all of his papers should be perfect, and all the facts cleared of technicalities, so that the judge may pass exclusively upon the merits of the case.

An applicant for naturalization must state in his petition whether or not he ever has filed a previous petition, and if so, what became of it. There have been instances in which a former petition was granted, but for some reason the record of it cannot now be found. In such a case the petitioner would have the greatest difficulty in getting proofs of his citizenship. His new petition may be denied on the ground that he is "already a citizen," but it leaves the record in an unsatisfactory condition; although his copy of the order of denial, stating that he is a citizen, serves fairly well for most purposes to certify his citizenship.

"GOOD MORAL CHARACTER"

It is customary for naturalizing courts, in denying petitions, to add some phrase governing a later renewal; such as "without prejudice to renewal"; or "with prejudice to renewal before the expiration of five years from the date of this order of denial." In absence of such a phrase the court passing upon the second petition—especially if the former denial was on the ground of "immoral character"—requires the lapse of at least five years and exceedingly good proof of reform. The law requires that the petitioner must show affirmatively not only that during the whole period of five years immediately preceding the date of his petition he has behaved as a person of good moral character, attached to the principles of the Constitution, etc., but that he *is* at the time of the petition such a person. Courts have been known to deny petitions for acts committed

before the beginning of the five-year period, on the ground that they involved ineradicable moral turpitude. Judges have shown much liberality on this point, however; there was a case of an old homesteader who had spent several years in the penitentiary; but the judge inquired far enough into the history of the matter to learn that the man was convicted as the result of a conspiracy on the part of certain neighbors who wished to get his homestead.

The latitude of the courts in this respect is very wide, and interesting slants are to be found in the decisions. There was a saloonkeeper in Chicago who participated in the then general custom of keeping liquor saloons open on Sunday in violation of the law, the policy of the city administration at that time being that of non-enforcement. There came a time when public sentiment required enforcement of the Sunday-closing law, and thereupon this man promptly obeyed the orders of the police to that effect. When his petition for naturalization came up, it was held that the consent of the authorities to his disobedience of the law was no excuse; a person who would accept the benefit of an evasion of the law could not be of "good moral character."

Said the court:

> If a rule were laid down that it is immoral to knowingly and willfully violate the law in a community where public sentiment approves the law, but not immoral in a community where public sentiment does not approve the law, it would be most disastrous to the good order and well-being of society. . . . That public officers charged with enforcement of the law do not do so cannot change the effect upon the moral character of a man who willfully and habitually violates it. [1]

This was a case in which the government succeeded in canceling a certificate already granted, and it shows,

[1] United States *vs.* Gerstein.

as do many others, what a severe gantlet the petitioner must run, and how his past is combed over before he can show that he is altogether qualified. Gerstein was required to wait before filing a second petition; the court said:

> The order and decree of naturalization of the Superior Court [of Cook County, Illinois] is reversed and the application of appellee for citizenship denied, without prejudice to his right to file another application *when time has removed the disqualification.*

THE FINAL CEREMONY—OATH OF ALLEGIANCE

The law requires that the Oath of Allegiance shall be taken in open court as the final act of the petitioner before being formally admitted to citizenship; thereupon the decree is entered and certificate issued; but the Naturalization Service is forbidden by its regulations to issue the certificate until the judge's signature is upon the order. Sometimes the clerk rattles off or mumbles the oath very indistinctly, and the petitioners, often a large number of them, hardly understand a word of the solemn ritual. It is becoming more common for the judge to require everyone in court to stand while he delivers the text of the oath loudly and clearly. In some courts where there are many applicants, and all concerned are pressed for time, the persons to be naturalized are kept in one part of the room until the docket is cleared, whereupon the oath is administered to them in groups of nationality; each nationality group standing with upraised right hands while the clerk or judge reads the words, and names the particular "prince, potentate, state, or sovereignty," allegiance to whom, or to which, is to be abjured. Sometimes this ceremony is a very hurried, perfunctory, and undignified performance; sometimes a very solemn

and impressive one. During the high-pressure process of naturalizing great numbers of soldiers in the army encampments during the war, it was sometimes the custom to have all nationalities stand at once, the clerk naming all the sovereignties concerned in one series, with the presumption that each individual would mentally isolate the one which he was supposed to have in mind. There were occasions when this helter-skelter method was pursued for the benefit of as many as 1,200 petitioners together.

CEREMONIES OF INITIATION

There is a growing movement in favor of having public ceremonies of "initiation," in which the whole community is represented, to welcome the new citizens; to impress upon both the newcomers and the people to whose fellowship they are being welcomed, the importance and solemnity of the occasion. An increasing number of judges are carrying out this idea in their naturalization proceedings; adding to the formalities required by the law a speech either by the judge himself or by some representative citizen, or both, in which the momentous significance of the act in which the alien and the court have joined is emphasized. Some judges make a practice of giving to each new citizen a small flag, a special certificate, a leaflet or brochure setting forth the sentiments appropriate to the occasion. Much more common is it becoming for public-spirited citizens to organize a meeting of the same import. Here, for example, is the program of such a meeting, held in the Music Hall at Fall River, Massachusetts, on May 7, 1919, following a naturalization session of the local court, designated as "Reception and Welcome to Fall River's Newly Naturalized Citizens":

PROGRAM

HON. HENRY F. NICKERSON, Presiding

Music.....*Orchestra*

Singing—"America".....*Audience*

Address of Welcome.....*Hon. Henry F. Nickerson*

Response by a naturalized citizen.*James B. Kerr*

Selection.....*Orchestra*

Address.....*Rev. Everett C. Herrick*

Pledge of Allegiance—*Led by Boy Scouts:*

> "I pledge allegiance to my flag and to the country for which it stands; one nation, indivisible, with liberty and justice for all."

Presentation of Certificates of Naturalization
M. B. Irish, Sec. Fall River Immigrant Committee

Prayer.....*Rev. Vincent Marchildon*

Singing—"Star-spangled Banner".*Audience*

Informal Reception

Here is another program—of the "Americanization Meeting in honor of those who were admitted to citizenship April 19, 21, 22, 1920," held in the Union High School at Grand Rapids, Michigan, April 30, 1920, under the auspices of the Grand Rapids Board of Education and the Americanization Society:

AMERICANS BY CHOICE

PROGRAM

HENRY E. CROW, President of the Board of Education, Presiding

JOHN W. BEATTIE, Supervisor of Music, Song Leader

Song—"America".....*Audience*

Address.....*Christian Gallmeyer, Mayor of Grand Rapids*

Folk Games.....*Pupils Sibley School*
Directed by *Miss Ila Krumheuer*

Address.....*Fred J. Schlotfeldt, Chief Naturalization Examiner, Chicago, Ill.*

Songs.....*Audience*

Presentation of Citizenship Certificates.
Judge Willis B. Perkins, Circuit Court

Pledge of Allegiance to Flag—*Audience, led by Boy Scouts:*

"I pledge allegiance to my flag and to the country for which it stands; one nation, indivisible, with liberty and justice for all."

Address to New Citizens.....*A. P. Johnson, Publisher Grand Rapids "News"*

Songs.....*Audience*

Address.....*Raymond F. Crist, Director of Citizenship, Bureau of Naturalization, Washington, D. C.*

"Star-spangled Banner".....*Audience*

Mrs. Henrietta Briggs-Wall of Washington, D. C., has presented admirably the spirit of this movement in a pamphlet proposing a general "New Patriot Plan," to utilize the Fourth of July throughout the country for the celebration of the "civic birthday," alike of the native born who, during the past year, have attained the voting age of 21 years, and the newly naturalized foreign born. "In other countries," says Mrs. Briggs-Wall, "much ado is made over the crowning of kings and queens who attempt to rule over others; there is much more occasion for general rejoicing when newly enfranchised citizens attain their share in the honors and duties of self-government." The plan proposes in general a Fourth-of-July celebration in every community in America to which the newly enfranchised shall be invited as guests of honor. The author says, among other things:

The natural birthday is remembered by the family; the "civic birthday" should be honored by the community.

Inauguration ceremonies should accompany this newly acquired power. These exercises may consist of addresses to them [the newly enfranchised], music, a variety of activities for their entertainment and instruction; all of which, as an object lesson, will promote the patriotism of all the people.

Prizes may be offered to those who bring the greatest number to register in the "Record Book of New Patriots"; also to those who may try, if they choose, to write the best essays on "true patriotism." . . . The customs and convenience of different localities will suggest varying methods.

It is appropriate that the birthday of freedom, the civic birthday of our country, should be chosen to celebrate the civic birthday of the citizen. It is the best possible holiday for patriotic purposes; the audience is already furnished, and the minds of the people are in a receptive mood. It occurs at the time of year when picnics, excursions, and out-of-door celebrations of all sorts can be easily arranged in honor, and for the pleasure, of the new patriots.

Criticism, commendation and reform alike, to be either fair or judicious, must bear in mind that the naturalization system which has been built up—and such parts, absurdities, inhumanities, and bureaucratic excrescences as have grown up—under the Naturalization Act of 1906 represents when all is said an honest, diligent, and wholly patriotic effort to make impossible the now almost incredible scandals of former times; to establish and vigilantly maintain proper standards of character and intelligence by which to test those of other nativity who desire to join our fellowship and participate in our sovereignty; and to fit and educate those who are admitted for the better appreciation and performance of the unique privileges and responsibilities of American citizenship. The remediable evils, some of the more conspicuous of which have been indicated, seem to be due in part to survival among us of general race and anti-foreign prejudices, despite our historic professions and democratic traditions; in part to the mere inertia of custom and habit characterizing all governmental institutions; in part to the "personal equation" of those upon whom, in various parts of the country, falls the duty of administering the law.

The experience of these fifteen years has demonstrated that the law, as it stands, is on the whole just and effective for its purposes. Its defects can be remedied; its sound features strengthened and clarified. It is time to modify it in some respects; to standardize the tests and conditions enforced under its provisions, to the end of removing, or anyway diminishing, the opportunity for the erratic operation of "personal equation" and the theories, whims, negligences, together with the illegal and extra-legal practices, in both the executive departments and the courts, of which the aspirant for citizenship is the hapless victim.

VI

PERSONAL EQUATION IN NATURALIZATION

When we speak of the "personal equation" as an important factor in the adoption or rejection of an alien applicant for citizenship, we are likely to be thinking chiefly of the personality of the petitioner; of his character, intelligence, education, social training and experience; of his general fitness and capacity for assimilation of our language, customs, traditions, institutional relations—what we are pleased to call our "fundamental principles." But this is only a part, and not always or necessarily the most significant and controlling part, of the situation. There are other "personal equations" to be considered. For while it is true in one sense that the applicant does pass into the maw of a machine, constructed "of law rather than of men," and governed by more or less precise and automatically operating regulations from whose technic the individuals on either side of the process may not materially depart, the fact is that there is hardly any other legal process in our governmental system in which personality—individual ideas, prejudices, idiosyncrasies—plays so large a part. In no other activity of the courts is the individual petitioner so entirely at the mercy of the court, so completely without recourse in the event of a decision against him.

Strictly speaking, the proceeding is judicial; an *ex-parte* case in an important court, in which a petition is filed with the clerk, comes in due course before the judge

in person; evidence is received for and against the granting of the privilege requested, and the judge decides in a formal order and decree, pro or contra; the petition is granted or denied, as the case may be. For every petition is decided and disposed of in some final way, even though it may be continued or postponed once or more. It is doubtful, however, whether anywhere in our judicial procedure—even in the minor courts where so often farcically unjust "law" is inflicted upon defenseless persons—may be found a class of cases departing so far in practice from the apparent simplicity of the theory; where the petitioner is subject to so heavy handicaps of technicality; to so great an extent at the mercy of personal whims and mental limitations, of blunders and negligences—and "red tape"—of persons over whose activities he has not the slightest control, with very little right or opportunity to have beside him anyone to protect him from encroachment upon his rights.

The Constitution of the United States gave to Congress exclusive authority "to establish a uniform rule of naturalization." [1] It might have been inferred that the intention was to make the process strictly an affair of Federal administration; but Congress did not so construe or utilize the authority. It established, by the original statute and subsequent legislation, uniform standards of requirement as to racial restriction, preliminary period of residence, literacy, and moral qualifications; but in effect it gave the jurisdiction and administration of the law back to the states—not in so many words, to be sure, but by committing the naturalization function to local as well as to Federal judges in every state and territory. Nothing could have been devised more surely to subject the operation of the law

[1] Art. I, sec. 8, par. 4.

to the peculiarities of local conditions and feeling, and to the warps and twists of personal notion.

From the beginning, in the first general naturalization law enacted after the new republic got under way, the function of admitting new members of the nation has been vested in the courts—a *judicial* power and activity. So it remains to-day. And with the sole exception of Canada, the United States is unique in respect of this method of naturalization. England, France, and virtually all of the other nations vest the power in some ministerial agency.[1]

A FUNCTION OF LOCAL COURTS

At first glance it might seem fitting and wise to confine the function (if to the courts at all) to the *Federal* tribunals, in the interest of freedom from local political influence, uniformity of interpretation and practice, and recognition of the fact that citizenship is chiefly a relationship to the nation as a whole. Always, indeed, there has been a considerable body of sentiment in favor of such a change in the practice. Many of the state judges would favor it; some for reasons of principle, but most because they would gladly get rid of a body of duty which to many is irksome and a distasteful interference with their ordinary matters of litigation by duties which they regard as properly more administrative than judicial. No Federal judge will hear of any such addition to their already great burden of work.

The reasons to the contrary are weighty and thus far have been controlling. In the first place, after all is said, an individual, however national his citizenship in the large sense, is politically a unit of the state in which he resides. He does not vote for any strictly Federal

[1] See *Report of the President's Commission on Naturalization*, 1905, Fifty-first Congress, First Session, House Document 46.

officer; the only civic relationships which he bears to the nation as such are those of direct taxation and national military service—and both of those are of comparatively recent establishment. He does not vote for President of the United States, but for a group of Presidential electors who will cast the vote of his state in the Electoral College. When he votes for two Senators and one Representative in Congress, he votes for them as representatives of his own state and Congressional district. The states, as a rule, have been very jealous of every effort to take the direct control of the selection of their citizens out of the hands of officials amenable to local sentiment.

There is another and even better reason, in the fact that the United States courts are relatively few and far between, and the expense of time and travel which would be imposed upon applicants, living elsewhere than in large cities, for having to go (as they do now twice and often more than twice) to the nearest Federal courts would be prohibitive upon all aliens but the most prosperous or those whom some one might have a motive, political or other, for subsidizing in this way. In not a few sparsely settled regions, even as it is now, a petitioner must travel, and take his two witnesses, a total of many hundred miles before he can consummate the process of naturalization and obtain the precious certificate without which he cannot complete his title to his homestead.

The existing law, modified in its allusions to territories which since have become states by the various kinds of legislation relative to their statehood, thus describes the courts which are to have the power to pass upon applications for citizenship:

United States Circuit and District Courts now existing, or which may hereafter be established by Congress, in any State; United States District Courts for the Territories of Arizona,

New Mexico, Oklahoma, Hawaii, and Alaska; the Supreme Court of the District of Columbia, and the United States Courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

"PERSONAL EQUATION" OF THE JUDGES

According to the report of the Commissioner of Naturalization for the fiscal year ending June 30, 1919, a total of 2,306 courts of all these kinds have exercised naturalization jurisdiction during that year, and a list of judges, compiled by the Americanization Study from information obtained from the Naturalization Service and from other sources, shows that about 1,450 individual judges, Federal, state, and local, preside in these courts. A grand total of approximately 100,000 cases a year—the figure roughly used in estimating the naturalization business of recent years—would give to each judge an average of about 70 cases a year; but since in the great majority of rural districts this business is exceedingly small—in some cases not more than two or three in a year—and since the bulk of it is in the large cities and in particular regions, such as the mining districts of Pennsylvania, West Virginia, Illinois, etc., certain courts have a very large number of cases, in some instances running into thousands.

In the last analysis, the individual judge is, subject to certain noteworthy restrictions and interferences, the final arbiter in every case. Upon his "personal equation," his opinions and prejudices, to a great extent depends the reception which the petitioner experiences when he comes into court for the final stage of his initiation as an American citizen.

Obviously, then, it becomes important to ascertain

the general attitude of the naturalizing judges throughout the country toward the law as it stands, toward the naturalization process in general, toward the petitioner for citizenship. In the last analysis the judge is a human being, moved by human motives, warped by human prejudices, subject to the same personal, local, and general influences that condition the emotions and actions of the rest of us toward our fellow men.

With this in view, the Americanization Study addressed a questionnaire to each of the approximately 1,400 judges throughout the country entitled [1] to jurisdiction in naturalization proceedings in the 2,300 courts over which from time to time they preside for this purpose. Somewhat less than one-third (423, or about 31 per cent) of the judges thus addressed replied or were accounted for in some manner more or less complete. Any exact or conclusive tabulation of the replies would be impracticable because the questions called for expression of opinions rather than categorical or statistical answers; a large proportion of the judges left one or more of the questions unanswered or qualified their answers in such a way as to preclude the possibility of precise classification. Nevertheless, the results as a whole are highly significant and informing—almost as much so in their negative aspects as in the definite replies evoked.

For example, it is interesting to observe the difference not only in the ratio of replies received to the number of judges questioned, but in the character of the replies as regards general strictness or liberality of attitude, in the various parts of the country. The first point is to be seen in the following list of naturalization districts, with the

[1] The words "approximately" and "entitled" are appropriate here, because by no means all of the judges empowered to naturalize exercise the function, and the list is constantly changing by reason of death, retirement, readjustment of work in large courts, etc.

approximate number of judges in each and the number of them heard from:

TABLE IV

NUMBER OF REPLIES FROM JUDGES IN EACH DISTRICT

Boston District.—Comprising the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island.

STATE	JUDGES	REPLIES FROM
Maine	9	3
New Hampshire	6	1
Vermont	7	4
Massachusetts	29	3
Connecticut	18	4
Rhode Island	8	2
Total	77	17

New York District.—Comprising Northern, Eastern, and Southern New York, and Hudson County, New Jersey.

STATE	JUDGES	REPLIES FROM
New York	74	19
New Jersey	3	0
Total	77	19

Philadelphia District.—Comprising the Eastern and Middle Districts, Pennsylvania, Delaware, and New Jersey (except Hudson County).

STATE	JUDGES	REPLIES FROM
Pennsylvania	46	11
Delaware	4	2
New Jersey	24	10
Total	74	23

Pittsburgh District.—Comprising Western Pennsylvania, Western New York, West Virginia, Ohio, Maryland (counties of Allegheny, Frederick, Garrett, and Washington), Kentucky (counties of Campbell and Kenton).

State	Judges	Replies from
Pennsylvania	29	7
Kentucky	1	0
Maryland	4	0
New York	22	6
Ohio	81	22
West Virginia	27	9
Total	164	44

Washington District.—Comprising the District of Columbia, Alabama, Florida, Georgia, Kentucky (except the counties of Campbell, Jefferson, and Kenton), Louisiana, Maryland (except the counties of Allegheny, Frederick, Garrett, and Washington), Mississippi, North Carolina, Porto Rico, South Carolina, Tennessee (except Shelby County), Texas, and Virginia.

State	Judges	Replies from
District of Columbia	1	0
Alabama	7	2
Florida	12	3
Georgia	10	0
Kentucky	12	2
Louisiana	18	2
Maryland	14	2
Mississippi	13	1
North Carolina	10	1
Porto Rico	1	0
South Carolina	6	0
Tennessee	9	3
Texas	25	8
Virginia	9	1
City of Baltimore	9	1
Total	157	29

St. Louis District.—Comprising Arkansas, Oklahoma, Missouri, Iowa, Nebraska, Kansas, Shelby County, Tennessee, and Southern Illinois.

State	Judges	Replies from
Arkansas	35	9
Illinois	20	6
Iowa	62	27
Kansas	39	14
Nebraska	34	11
Missouri	43	11
Oklahoma	34	11
Total	267	89

Chicago District.—Comprising Northern Illinois, Indiana, Southern Wisconsin, Jefferson County, Kentucky, Southern Peninsula of Michigan, and Mackinac County, Michigan.

State	Judges	Replies from
Illinois	87	20
Indiana	70	20
Michigan	51	18
Wisconsin	15	5
Total	223	63

St. Paul District.—Comprising Minnesota, North Dakota, South Dakota, Northern Wisconsin, Northern Peninsula of Michigan (except Mackinac County).

State	Judges	Replies from
Minnesota	48	20
Michigan	4	3
North Dakota	13	6
South Dakota	13	5
Wisconsin	11	7
Total	89	41

Denver District.—Comprising Colorado, New Mexico, Wyoming, Utah, and the counties of Bannock, Bear Lake, Bingham, Bonneville, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, and Power, Idaho.

State	Judges	Replies from
Colorado	17	7
New Mexico	9	5
Utah	9	3
Wyoming	8	2
Idaho	5	3
Total	48	20

San Francisco District.—Comprising California, Arizona, and Nevada.

State	Judges	Replies from
California	95	34
Arizona	16	8
Nevada	12	2
Total	123	44

Seattle District.—Comprising Washington, Oregon, Montana, and Idaho (except as assigned to Denver).

State	Judges	Replies from
Washington	47	15
Oregon	27	11
Montana	26	7
Idaho	11	1
Total	111	34

Recapitulation

Total number of judges addressed	1,410
Replies received from	423

	Percentage of Replies
St. Paul District	46.0
Denver District	41.7
San Francisco District	37.4
St. Louis District	33.3
Philadelphia District	31.0
Seattle District	30.6
Chicago District	28.2
Pittsburgh District	26.8
New York District	24.6
Boston District	22.0
Washington District	18.5
Average	30.9

It would be perilous to generalize from these figures as to the interest of judges in various parts of the country in the study of the problems involved in naturalization. Silence does not necessarily imply indifference; moreover, the courts in large centers of population are overburdened with ordinary litigation, and it is not surprising that there should be procrastination or entire failure in responding to a more or less elaborate questionnaire. Nevertheless, there is food for reflection in the fact that the lowest percentages of exhibited interest are in the East and South—the highest west of the Mississippi River.

The judges who did reply to the questionnaire represent on the whole both wide experience and substantial interest in the subject. Of those who state the number of naturalization cases coming before them in an average year, more than 100 passed upon 100 cases or more —not including the very large numbers passed by a few in acceptance of soldiers under the "military naturalization law"; at least as many more had from 50 to 100 cases a year (160 between 10 and 100); only 67 reported less than 10. Upward of 400 judges, each answering for himself, undoubtedly afford a reasonably

reliable cross-section of the opinion of the naturalizing agency of the government.

BIRD'S-EYE VIEW OF THE QUESTIONNAIRE

The questions which were asked, and the general nature of the replies to each, give a bird's-eye view of the principal phases of the problem, and a fair notion of the degree to which the judges may be regarded as liberal or conservative and alive to the situation. The questions and the figures given after each speak for themselves:

Do you regard the present requirements for naturalization as too strict, or not strict enough?

Answers:	About right now	185
	Too strict	26
	Not strict enough	97
	Noncommittal	20
		328

What is your policy as to "continuous residence"—how long, if at all, do you permit a petitioner to have been absent from this country during the five years immediately preceding his petition?

The answers to this question may be roughly classified to show the general attitude of the judge, as follows:

No absence whatever permitted	72
A fixed time limit (three to six months very general)	32
"Entirely a question of *intention*"	210
Noncommittal	26
	340

How frequently do you require the petitioner's witnesses actually to have seen him during the five years' period?

Very strict ("daily"; "constantly, as a neighbor"; "I insist upon a real personal intimacy," etc.)	53
Reasonable ("enough to satisfy me as to the petitioner's character and	

residence"; "a bona-fide acquaintance," etc.)	287
	340

Do you require applicants for naturalization to prove that they can read as well as speak the English language? The law does not require ability to read.

Yes	179
No	155
	334

Would you favor amending the law so as to permit the substitution of a witness where, in evident good faith, one of the original two appears, in the judgment of the court, to be honestly mistaken in believing that he has adequately known the petitioner for the whole five years? (Under the present practice the petition is denied, and a new one must be filed and a new fee paid.)

Yes ("The present practice imposes a great hardship and injustice")	311
No	36
Noncommittal	6
	353

Would you favor amendment of the law so as to mitigate the present requirement that two, only two, and the same two, witnesses must swear to personal knowledge of all of the petitioner's residence up to five years, within the state in which the petition was filed, and thus permit him to cover a part of this residence by depositions, or additional witnesses, when witnesses possessing the qualifications now required cannot be procured?

Yes	289
No	34
Noncommittal	11
	334

Would you write into the Naturalization Law a specific educational or intellectual test for admission to citizenship?

Yes	167
No	157
Noncommittal	25
	359

Do you favor a uniform required course of instruction for applicants for citizenship?

Yes	208
No	134
Noncommittal	33
	375

Would you favor acceptance, as prima-facie evidence of intellectual fitness, of a suitable certificate from schools or class, of the successful completion of such a course?

Yes ("I would"; "I do accept school certificates now," etc.)	209
No ("The judge must satisfy himself by his own inquiry"; "it is character, not learning, that counts"; "too many Socialists are teaching school," etc.)	110
Noncommittal	31
	350

Would you favor the abolition of the present Declaration of Intention (first papers)? If not, what good purpose do you think it serves?

Yes ("It serves no good purpose")	82
No ("It is an essential of the proceeding"; "it serves notice to all concerned"; "it tends to keep the applicant in mind of his desire to be a citizen," etc.)	241
Noncommittal	33
	356

What have you observed to be the special difficulties in the way of desirable foreigners, hindering them from seeking naturalization?

Know of none deterring *desirable* foreigners	107
Ignorance and indifference	104
Deterring attitude of natives	60
Technicalities in law and examinations	42
No opinions	58
	371

PERSONAL SIDE OF NATURALIZATION

Would you favor legislation to permit the naturalization of a married woman in her own name, if personally acceptable, regardless of the alienage of her husband, or his failure to obtain or refusal to seek naturalization?

Yes	204
No	104
Noncommittal	25
	333

Would you favor reserving to a native-born American woman, if she desires it, the American citizenship which under the present law she sacrifices by marriage to a foreigner?

Yes	220
No	127
Noncommittal	17
	364

Would you favor modification of the law so as to admit to citizenship any individual personally fit, regardless of race or color?

Yes	100
No	225
Noncommittal	34
	359

Do you believe that the admission of large numbers of aliens under the Act of May 9, 1918, solely on the ground of military or naval service, without the usual requirements of residence, etc., operated on the whole to the advantage of the United States?

Yes	111
No	113
Doubtful	28
No opinion	58
	310

Would you favor applying the same standards and tests to all prospective voters, native and foreign born alike, before endowing them with the suffrage; with suitable ceremonies of induction into "active voting membership," so to speak, in our society?

Yes	180
No	102
Noncommittal	44
	326

Would you favor removal of naturalization from all state courts, so as to make it exclusively a function of the Federal courts?

Yes	112
No	208
	320

Would you favor placing naturalization in the hands of traveling naturalization commissioners, appointed by and responsible to the courts?

Yes	76
No	202
	278

Would you favor making naturalization a purely administrative function, exercised by the Naturalization Bureau, or other appropriate organ of the Department of Labor, or other department?

Yes	48
No	222
	270

GENERAL TREND OF JUDGES' OPINIONS

The returns of this questionnaire, from a sufficiently representative cross-section of the naturalizing agency of the government, self-selected by the operation of substantial personal interest in the problems embodied in the situation (as evidenced by taking the pains to express opinion), make clear the opinion of the judges on several important points, and may be summarized substantially as follows:

(1) The judges on the whole believe that the present law requires no drastic amendment in principle; they believe that the naturalizing function should remain with the courts; should not be confined to the Federal courts, and should be exercised in the open courtrooms as it is at present. And this, notwithstanding the fact that the function adds materially to the burden of ordinary litigation.

(2) In the matter of attitude toward both petitioners and their witnesses, the judges are in the main liberal and humane, judging of absence during the five years' probationary period chiefly with regard to the occasion for the absence and the continuing *intention* to become an American citizen, and the witnesses' knowledge of the petitioner by the practical facts in the case.

(3) An overwhelming majority of the judges favor mitigation of the technicalities now surrounding the proceeding by permitting the substitution of witnesses and the supplying of evidence to convince the court, by means of depositions covering portions of the period of residence within the state in which the petition is filed. It may be added that very many of the judges would accept testimony of the same character as that which they would receive in any other sort of proceeding before the court to establish any fact.

(4) A majority of the judges require of petitioners proof of ability to *read* the English language; some require also ability to write it—although the law requires only ability to *speak* it. There is a marked weight of opinion in favor of requiring reading; some also advocate writing—even among the judges who do not now require it because the present law does not. The judges are about evenly divided as to the desirability of a uniform educational test. Most of those who oppose it emphasize the fact that, in the selection of citizens, character and general reputation are more important than book learning; that a bad man is made only the more dangerous by education. A majority of the judges would favor a required course of instruction, and would accept as *prima-facie* evidence of intellectual fitness a school certificate of the successful completion of such a course. Increasingly, such certificates are in fact accepted by courts all over the country.

(5) The judges are emphatically opposed to the abolition of the declaration of intention, the ratio of expressions in the negative being approximately three to one. The declaration is regarded by the judges of the widest experience as having a moral value of great importance, and as affording indispensable notice to the government and the public of the alien's intention to apply for "active membership."

(6) With regard to married women, the judges are two to one in favor of permitting their naturalization as individuals, regardless of the action of their husbands, and nearly as much so in favor of reserving to American-born women their citizenship, notwithstanding their marriage to aliens. As regards the latter point, most of those expressing themselves in the affirmative insert the proviso that the woman must continue her domicile in this country.

(7) Opinion is in the negative as regards naturalization of "any individual personally fit, regardless of race or color." Most of the judges interpret the question as applying to Chinese and Japanese. A Southern judge holds that "since citizenship has been granted to the African race, there is no reason for withholding it from any other." Those who vote in the affirmative do so on the ground that even membership in the Mongolian racial groups should not exclude persons who can show personal fitness for citizenship; nevertheless, the vote in the negative is more than two to one.

(8) The judges are not clear with regard to the suggestion of a standard test for all prospective voters, native or foreign born, by which even native Americans at the age of twenty-one years should pass at least the same examination as an alien applicant before being armed with the ballot. Nevertheless, nearly two to one of those who spoke on that point favor the establishment of such a test.

(9) Military naturalization is the subject of grave doubt. The vote is about evenly divided—a shade toward the negative—but nearly as many judges are doubtful or noncommittal as are either favorable or opposed to the measure. It should be said, however, that those most emphatically satisfied with what was done in this regard are those who had the most experience with it.

THE CLERKS OF THE COURTS

The clerks of the courts in many ways are not less important in the experience of the petitioning alien than either the judges or the naturalization examiner. Upon the clerk, more than upon anyone else, in the vast majority of cases, depends scrutiny of the declaration of intention; usually he actually makes out the declaration for the alien; if he is careful and familiar with the routine of form and fact he makes it out, or sees that it is made out, correctly; if he regards the whole business as a nuisance, has a prejudice against immigrants as such or against the particular race represented by this particular alien, or doesn't like this individual, if he has had a controversy with the Naturalization Service or is, for some other reason, in an unfriendly mood, or if, as is more likely to be the case, he is simply careless or unfamiliar with the technic of the business—having very little of it to do—the interests of the alien may suffer accordingly. The courts do not give the alien the benefit of any allowance for clerical or other errors made or permitted by the clerk if they relate in the slightest degree to any material fact; the alien must guard himself against any such error, or bear the consequences alone. In fact, the courts have repeatedly held, as it is expressed in a brief in the case of Mulcrevy *vs.* San Francisco, in the United States Supreme

Court, that the duties in connection with naturalization performed by clerks of courts "are not appurtenant to the office of clerk of court. . . . All of their transactions with the Bureau of Naturalization, and these include almost all of their service, are performed without any reference to the court."[1] In many instances, the clerks are greatly annoyed by having this citizenship work thrust upon them; they take no pleasure in having been "freely designated by Congress to serve the purposes of the Federal government," or in being thus "instrumentalities or agencies of the Federal government," as the Mulcrevy brief puts it, and perform their duties in a careless, grudging, and ill-natured spirit.

In most of the rural districts, naturalization business is very light; sometimes there will be only two or three cases a year; there are even courts in which a year or two might pass without any at all. In such instances the labor is trivial; but for that very reason the clerk is not alive to the importance of details, and the ratio of mistakes may be the greater for that reason.

In the large cities, where the naturalization business is heavy, there are usually deputy clerks devoting virtually all of their attention to it; they keep in practice, and avoid errors. But it is to be remembered that because this work is not "appurtenant to the office of clerk of court," neither the United States nor the state contributes anything whatever to the remuneration of the clerk. The alien pays for that, in a manner well calculated to create an undesirable relationship all the way round. The clerk is put in this regard largely at the mercy of the Naturalization Service, and

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[1] See United States *vs.* Hill, 120 U. S., 169; Hill *vs.* United States, 40 Fed., 441; United States *vs.* McMillan, 165 U. S., 504; *in re* Halladjian, 174 Fed., 834.

the result is not a happy one—as might very well be expected.

THE QUESTION OF ADEQUATE CLERICAL FORCE

The report of the New York State Commission of Immigration, transmitted to the Legislature April 5, 1909, after the present system had been in operation about two years, dealt with this matter in connection with its comment upon delays in the naturalization business in the courts, especially of New York City, which is attributed chiefly to insufficiency of clerical force, due, in its finding, to the operation of the following provision of the naturalization law:

> That the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of the fees in any fiscal year, up to the sum of three thousand dollars, and that all fees received by such clerks in naturalization proceedings in excess of such amount shall be accounted for, and paid over to said [Naturalization] Bureau, as in case of other fees to which the United States may be entitled under the provisions of this Act. The clerks of the various courts exercising jurisdiction in naturalization proceedings shall pay all additional clerical force that may be required in performing the duties imposed by this Act upon the clerks of courts from fees received by such clerks in naturalization proceedings.
>
> And in case the clerk of any court exercising naturalization jurisdiction collects fees in excess of the sum of six thousand dollars in any fiscal year, the Secretary of Labor may allow salaries, for naturalization purposes only, to pay for clerical assistance, to be selected and employed by that clerk, additional to the clerical force, for which clerks of courts are required by this section to pay from fees received by such clerks in naturalization proceedings, if in the opinion of said Secretary the naturalization business of such clerk warrants further additional assistance: *Provided*, That in

no event shall the whole amount allowed the clerk of a court and his assistants exceed the one-half of the gross receipts of the office of said clerk from naturalization fees during such fiscal year.[1]

WHEN THE CLERK POCKETS THE FEES

The clerk is not required to spend for additional clerical force the portion of the fees *under three thousand dollars* retained by him. In some states he is required to surrender it as part of the income of his office; but generally speaking he can put it in his pocket if he chooses to do so, and allow the naturalization business to become clogged and delayed. Sometimes he does just that. The Naturalization Service has no redress, although it usually is blamed by the uninformed for the ensuing situation. Of course the alien has none, although he is the principal victim of it. The possibilities of the arrangement are well illustrated in one great Middle Western city, where there are two courts, one state and one Federal, performing naturalization functions. The clerk of the state court is very efficient and interested in the work; he spends more than $3,000 on naturalization business, employing a deputy at $1,800 and a stenographer at about $1,000 a year, and in rush periods having extra force. The service to aliens in that court is courteous, accurate, and expeditious. The clerk of the Federal court does otherwise. He retains his $3,000, but employs an assistant at only $1,200 without any stenographer, and the work is badly delayed. A letter of complaint about this court mentions the fact that "I have been advised by . . .

[1]The text here quoted is from the law as it now stands; it differs very slightly in verbiage, but not in meaning, from the law as it read when quoted in the New York Immigration Commission's report.

that the United States District Court will be closed all day to-day." Day after day, during 1918–19, the office of the naturalization deputy clerk in that court was entirely closed, so far as the aliens were concerned, owing to the insufficiency of the clerical force. Generally, an overworked condition of a clerk's office leads, naturally, to hurry, discourtesy, and inevitable delays, during which applicants and their witnesses will lose day after day of working time in waiting for attention.

FORMS OF PETTY GRAFT

This sort of thing leads also to another evil, inevitable in such an atmosphere. Petty officers of the court, policemen and others having the run of the building, will tyrannize over the crowds of aliens awaiting attention, and will pretend to have, or actually will exercise, the power to put one person ahead of another or otherwise effect an unfair discrimination in favor of those who will pay something for the advantage. In one court there was found a definite arrangement with a neighboring saloonkeeper, who collected the bribes for a guard in the Federal building. The Naturalization Service has been assiduous in its discouragement of this sort of thing, and has had a good measure of success upon the minor grafters; but as the law reads at present it can use only moral suasion upon the clerks of courts to induce them to spend the retained share of the fees for the purpose for which the retention obviously was authorized—the *bona-fide* employment of the extra clerical force needed to handle the naturalization business.

The "moral suasion" business, however, has its limitations. While the chief naturalization examiners, in charge of the districts in the field, usually are on cordial terms with the clerks of their various courts,

the relations between the clerks and the office of the bureau at Washington, maintained almost exclusively by correspondence, with that correspondence almost invariably growing out of some complaint or dereliction on the part of the clerk, are not always so happy. The clerk has to send to Washington for all his supplies of blanks and other stationery used in the naturalization business. In one of the largest cities in the country there was a delay of weeks in getting certain supplies from Washington, and the petitioners suffered accordingly. The whole naturalization service is habitually short-handed and correspondingly overworked; but the penalty for the delays falls upon the head of the petitioner for naturalization. When a clerk of a small court, or a large one, has not on hand the blank forms upon which his declaration or petition must be written in order to be valid, the alien, who may have traveled with his witnesses scores of miles to file his paper, must return to his home and wait some more. This is an occurrence by no means infrequent.

Penalties are provided by law against clerks who fail to send punctually to Washington the required periodical reports and duplicates of papers. The Naturalization Bureau has been reluctant to attempt enforcement of these penalties—it is a bit drastic to fine a clerk $25 for a little delay in transmitting papers—and usually has been content to send an examiner to the court to get the material. But the correspondence growing out of such delays, and out of the effort to induce clerks to spend their retained share of the fees for clerical assistance, has added acerbity in many instances to the irksomeness of a task "not appurtenant to the office of clerk of court."

Small irritations also add friction. For example, the clerk is required to send his reports and papers by registered mail; there is no provision to reimburse him

for this; he can put in an expense bill—and maybe get it after a long delay. This is exasperating, whether one's annual share of fees in a small office amounts to $10 or $3,000. There was a clerk in California who declined to answer letters or have anything further to do with the Bureau after he thought he had been badly treated in some such matter; he induced the judge of his court to relinquish naturalization jurisdiction, and then wrote to the Bureau that it could have the records in his custody if it would send for them. The Bureau has a highly detached, impersonal style of correspondence, admirably adapted to alienate human sentiment and blight human interest.

"PERSONAL EQUATION" IN THE NATURALIZATION SERVICE

The executive arm of the government has the right to appear before courts exercising naturalization jurisdiction, for the purpose, as the law says:

> of cross-examining the petitioner and the witnesses produced in support of his petition concerning any matter touching, or in any way affecting, his right of admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

This perfectly breathes the spirit exhibited as a general rule by the representatives of the Naturalization Service. The alien petitioner, having passed muster in respect of the clerk's office, confronts the representative of the government, presumably familiar with every detail of technicality, in far too many cases bent upon preventing his naturalization if by any possibility it can be done. Judge after judge, in all parts of the country, answering the questionnaire of the American-

ization Study, describes the naturalization examiner as a zealous young man, intent upon straining every technical point to its utmost—against the petitioner.

In the original instructions issued by the Commissioner of Naturalization on June 30, 1909, when the field service was taken over by the Department of Commerce and Labor—of which the Naturalization Bureau then became a part—he said to the division chiefs:

> There is one point which I desire especially to call to your attention, and through you to the attention of those under your charge and direction, and it is a point upon which I must insist. The service is largely one not alone of an investigating nature, but of an advisory and instructive character as well; it furnishes the courts, the clerks of the courts, and the general public with information—especially that part of the general public directly interested in acquiring citizenship, or indirectly interested, as witnesses to those who are seeking naturalization.

Referring particularly to applicants, he said, also:

> They should further be made to understand that the substantial effect of such exactions [requirements of the law] upon your part is to protect them, after they once secure naturalization, from the disappointment, embarrassment, and distress which must ensue in case they secure naturalization without having complied with the law.

These excerpts from the Commissioner's instructions were quoted by authority in a letter dated August 15, 1919, from one of the district chief examiners to the writer; therefore they may fairly be taken to represent not only the initial policy of the Naturalization Service in beginning its work, but the policy to-day. As a statement of general policy and attitude they leave nothing to be desired. Furthermore, any fair consideration of the naturalization system must take into

account generously the background and historic perspective of this business.

A SCRUPULOUSLY HONEST SERVICE

As it already has been made sufficiently clear, prior to the enactment of the law of 1906, naturalization in the United States was not only a chaotic but a scandalous thing. Many persons believe now that it is "easy to get naturalized," that upon payment of a few dollars, or in consideration of political subserviency, promised or expected, any alien can go, as it were, straight from the vessel that brings him to the naturalization court and thence to the ballot box! It used to be almost like that, but with the enactment of the law of 1906 a revolution set in, and the condition now, generally speaking, is quite otherwise. The pendulum has swung to the other extreme. It is as difficult now to be naturalized as it used to be easy. And it is quite natural that it should be so, in the reaction of public sentiment from the old happy-go-lucky days, with the law's administration in the hands of a corps of men who, from top to bottom, answer any test of honesty and zeal. In all the wide inquiry upon which this volume is based, there was no hint anywhere of any manner of corrupt practice on the part of anyone in the service. Such faults and shortcomings as may be attributed to the Naturalization Service are of an entirely different character.

At the outset, the principal function performed by the government was that of investigation; the group of men who pursued the inquiries about aliens petitioning for citizenship was little more than a corps of detectives, bent upon ferreting out something, anything, that would show the applicant to be unfit. To begin with, this work was done under the direction of the

Attorney-General of the United States. All naturalization proceedings, in fact, were in charge of special assistants to the various United States district attorneys, the examiners operating under them as field investigators. The politicians had a good deal to say about the selection of examiners. Many, if not most of them, were former pension examiners. Some had been in the postal service; some had had no experience at all in the government employ.

Without implying any dereliction of intention on their part, then or now, it may be said that few of them had legal training or were otherwise fitted to conduct the government's part in court proceedings. The training of the examiners always has been of the most haphazard, inadequate character. Even under the operation of the Civil-Service laws, it was held that the kind of experience a man ought to have for the field service was that of general contact with the public—that of policemen, street-car conductors, and the like. Yet, as the practice has grown up, these men have to appear in important courts virtually in the guise of attorneys for the government; they must know the law, not only as set forth in the statutes, but as interpreted in innumerable decisions of Federal and state courts.

NEED OF UNIFYING INFLUENCE

The chief examiners have done their best, but differences of "personal equation" have resulted in a very wide diversity of policy and attitude. There never has been any adequate unifying influence in the service; supervision has been conducted largely by correspondence, and the correspondence has not always been self-consistent. Even in the matter of transmitting to the chief examiners the decisions of courts in naturalization matters, there has been a strong tendency to

transmit chiefly those decisions which supported the contentions of the Naturalization Bureau, so that there have been cases in which examiners went on insisting upon interpretations of the law which had been overruled, "getting away with it" in courts whose judges did not keep close track of the decisions, to the detriment of petitioners who could not know their rights—since the alien, as a rule, has no one in court to protect him, and rarely is in a position to take an appeal.

In the majority of the courts, particularly those far from the great centers and having relatively little naturalization business, the judges regard it as more or less of a nuisance, do not keep posted about the law and decisions, and, looking upon the naturalization examiner not only as the accredited representative of the government, but as an expert in this field, follow his recommendations and contentions; and here, again, there being no one in court to represent the frightened or embarrassed petitioner, the point of view of the examiner becomes that of the judge, and the law is handed down accordingly. On the other hand, a few judges have taken the attitude that they would not recognize an examiner who was not an attorney admitted to practice before those particular courts.

"NOTHING TO LITIGATE!"

The Bureau of Naturalization has contended that a naturalization hearing is not a "case"; that there is nothing to litigate; that the examiner is present not as an attorney, but as a friend and informant of the court, with which abides the final responsibility. It holds that the petitioner does not need an attorney, the judge being assumed to be of course as solicitous to protect the interests of the petitioner as those of the country's citizenship. No allowance is made under

this theory for judges like the one, for instance, who regards it as his duty to "construe everything against the petitioner"!

The operation of the system certainly leaves the petitioner frequently, at least, in a most unsatisfactory and perilous posture; as witness the matter of the seven-year limitation upon "old-law declarations." The crisis came in September, 1913, and there was a decision soon afterward in the United States District Court in New York ruling out all "old-law declarations." A policy in regard to these declarations should have been made then—a unified policy, applicable throughout the Naturalization Service. Nothing of the sort was done; the decision was heeded in some districts and ignored in others, *for five years!*—until the Supreme Court of the United States, sustaining the holding of the District Court in New York, at one stroke guillotined, so to speak, thousands of declarants under the old law. In many other matters there is still not only uncertainty, but variety of interpretation and practice; a regrettable lack in effect of the "uniform rule" contemplated by the Constitution.

In many courts the point of view of the judge and that of the naturalization examiner are at variance, and this leads in some cases to open bitterness. Some examiners quibble and irritate the judge with trivial objections; some judges constantly ignore important provisions of the law urged upon them by the examiners. Between such extremes the petitioner is a helpless shuttlecock at the time, and later the victim of cancellation proceedings. There are "too many cooks," too little supervised and unified, and among them the petitioner's broth is spoiled. One of the crying needs of the Naturalization Service is a permanent law officer, able and willing and vigilant to watch the making of the statutes and decisions all over the country, and to

inform and guide the representatives of the service in their interpretation of the law.

CONFUSED STATE OF THE EDUCATIONAL TEST

It shall be made to appear to the satisfaction of the court that, during five years at least immediately preceding the date of his application, he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

Such is the substance of the law. It requires also that he must be able to *speak* the English language, and that each of his precious two witnesses shall, of their own knowledge, certify that he is "in every way qualified, in their opinion, to be a citizen of the United States." The barbed entanglement of technicalities through which the petitioner must grope before the questions of substantial qualification can be reached, we already have seen.

Now, what does it mean to be "attached to the principles of the Constitution"? What manner of intellectual display is required to prove one "well disposed to the good order and happiness of the United States"? Around these two rather indefinite phrases rages the whole storm of "Americanization" as it affects the alien seeking to become one of us. Whether common sense, the notion of the man-in-the-street, the average, plain-spoken layman, shall prevail, or the ideas of a hypercritical "nativism," depends upon the "personal equation" of the judge, the clerk, the naturalization examiner—or, rather, the diagonal of forces produced by the concurrence or conflict of all three, aggravated or modified by that of the petitioner and his witnesses.

A considerable—one might almost say an overwhelming—literature has grown up about this part of

the subject of immigration; of scores, even hundreds, of books, pamphlets, leaflets, posters, diagrams, moving-picture reels, lectures, and what not else, designed to afford to aliens aspiring to citizenship that knowledge of "the principles of the Constitution" which the applicant must display to "the satisfaction of the court." The number and variety of these is impressive, even startling; they vary from the appallingly elaborate and diffuse "Citizenship Textbook," issued by the Bureau of Naturalization itself, to the simple and lucid folder issued by a judge at Duluth, Minnesota. One judge in Montana, who thinks "a residence of ten years should be required" before final application, has "a list of questions which every applicant who appears before me must answer. He is also asked many questions not contained in this list which go to his qualifications to become a citizen." The printed list occupies *nearly four newspaper columns of solid type*, and covers everything relating to the governments of the United States, the state of Montana, the local county, city, and ward—a body of civic information beyond the ken, or the hope, of 999 out of 1,000 native-born Americans between the two oceans; yet, on the whole, only what every citizen ought to know about the government which taxes and rules him.

A judge in Missouri, who has "possibly two, not over," of naturalization cases in a year, holds that an applicant should have "not merely an educational or intellectual test—for the more of either a man has the worse he may be for the country—but I would establish one of sentiment or principle, about as follows":

> Every applicant shall satisfy the court that he is familiar with, and attached to, such sentiments as are expressed in such writings as "A Man Without a Country," "America," "Declaration of Independence," etc., and that he is possessed of reasonable opinions on necessity of government and duty

of citizens to support the government and its laws, the freedom of the press, liberty of speech, obtaining redress for grievances, and a firm opposition to rioting, violence, force, and secret societies or orders countenancing or teaching overthrow of the government.

An Iowa judge says:

"Search the heart for the truth." The chief thing is to have the heart right—to have love and attachment for liberty, justice, and humanity, and to be ready to die, if need be, for the maintenance thereof. It might be well to have a uniform course of instruction for applicants for citizenship, but I would not adhere to it too strictly, if the heart proved to be right. . . . No good man, a true lover of liberty, justice, and humanity, should be rejected, unless he utterly fails to meet the other requirements of the law.

A Pennsylvania judge thinks little of educational requirements; that they would exclude many desirable applicants.

The principle test that I apply is as to the honesty of the party. Under an intellectual test many honest, hard-working men would fail, while men who had the advantage of education would secure naturalization. . . . Where men are required to support a family and labor hard they have not much time to study.

A judge in Nebraska, who handles some 200 cases a year, declares:

The intellect is not a test of good citizenship. I know many people with insufficient intellect to procure much education, who cannot read nor write, who are excellent citizens; and many others who are highly educated and too crooked to make good citizens.

A California judge avers:

My observation has been that many of our best citizens are those who possess no extended education, and some of

the most dangerous are of those who possess high educational qualifications.

A judge in central New York, who has large experience with naturalization, says:

> Too much stress is laid upon information concerning the details of our governmental system, and not enough upon the candidate's personal record, endeavors, and results. An Italian laborer who has been unable to learn the number of Houses into which Congress is divided, but is hard-working, steady, possessed of a desire to own his home and bring his family up in our ways, is more useful to us than some of more intelligence.

He holds that the principal difficulty with which desirable immigrants have to contend, in seeking naturalization, is the fact that "too much technical information is demanded by the young men who represent the Bureau of Naturalization."

Over against such expressions as these place the opinions of one of the Ohio judges, who, after the fashion of the Know-Nothings of the '40's, would require twenty-one years' residence before naturalization and "add to, rather than diminish, the present requirements," admitting "only heads of families, with children"; or those of the Arkansas judge who avowedly "construes everything against the applicant," and would admit a German under no conditions until after *fifty* years of residence. Such a diversity indicates the sort of difficulty confronting the alien in court, and the need of some unity of standards to be created by law, and a great simplification of the tests and examinations.

A letter was addressed to a number of experienced judges, known for their wisdom and humanity, asking for a tentative set of questions designed to disclose the knowledge thought to be essential to embody "attachment to the principles of the Constitution." Replies

were few, but they evidenced the difficulty of expressing in words such an "attachment." Many of the judges frankly confessed both their inability to produce any such exhibit, and their conviction that the intellectual display was of least importance in the test of the applicant.

THE CRAZE FOR "AMERICANIZING"—SOMEBODY ELSE!

When the Great War burst upon the world, with its various kinds of hysteria, many Americans suddenly awakened to a passion for what has come to be called "Americanization." Every sort of foreign-born, foreign-speaking—or even foreign-looking—person was seized upon as a subject or victim of this vague and little-ordered movement, with results as various as the degree of intelligence involved on the part of the Americanizers and the kinds of treatment inflicted; but to a great extent mischievous and tending to arouse hostility rather than "Americanism"—whatever the much-abused term might mean—in the breasts of the bewildered immigrant. Some of the effort, to be sure, was intelligent, considerate, and constructive.

It is to the credit of Richard K. Campbell, Commissioner of Naturalization, and Raymond F. Crist, his alert and enterprising deputy, that they were prompt in seeing the bearing of the Americanization movement upon their work. It is very easy now to criticize, from various points of view, the energy and enthusiasm with which the Bureau of Naturalization entered upon and increasingly absorbed itself in this activity, and to fan flames of jealousy between it and other organizations, governmental and what not, which have worked in this field. The fact is that, with all credit to others to which they may be entitled, the Bureau of Naturalization early saw, not only the essentials of this question, but

that it was at bottom a question of education, and set itself to the task of inspiring the public-school authorities to adapt themselves to the situation, and of placing at their disposal, at least theoretically, the unique material embodied in the archives of the Bureau. It is regrettable, though hardly surprising, that, in doing so, it allowed itself to become both swamped in the magnitude of the job, and obsessed by a sense of proprietary precedence in the field; reaching out beyond rhyme or reason for sweeping powers and responsibility which it is ill-adapted to exercise, and, in that reaching out, neglecting to carry on the important functions normally attaching to its own business, and indispensable to the intelligent carrying out even of its own ambitions.

With its report for the year closing June 30, 1915, begins the recounting of activities of the Bureau in the new field. In so many words it is there recognized as a new activity—"a broadening of policy," with a suggestion of justification, not to say apology, in the allusion to the Act of March 4, 1913, confirming the Bureau in charge of "all matters concerning the naturalization of aliens." As early as the latter part of 1913, the Bureau was discussing methods of encouraging classes in citizenship, and "the elimination of the known evils attending some of the private organizations seeking, under the guise of instruction, to exploit the ignorance of candidates for citizenship as an easy means for the acquisition of a lucrative income" was referred to as one of the reforms that would follow a co-operative activity between the public schools, the public generally, and the Bureau of Naturalization.

It was seen that the influence of the Bureau for the betterment of citizenship could be extended to every hamlet in the United States through the expansion and extension of the naturalization laws. This plan pro-

posed the organization of the public schools, with the Bureau of Naturalization, into an active unit for the development of American ideals of citizenship in the student body; the assembling together, on stated occasions, in the different metropolitan and other centers, of naturalized citizens and candidates for citizenship; the conduct of patriotic exercises, including addresses, the singing of national anthems, and a conferring of citizenship.[1]

But it was not until the period covered by the 1915 report that the Bureau began to be greatly engrossed with this policy. In that report, which directed attention to the growing interest of naturalizing judges and others in the mental training of aliens for citizenship, and their co-operation with the Bureau "in arousing the interest of the public," and thus operating upon the local school authorities to establish courses of training in English and in civics for alien residents who purpose to become citizens, the Commissioner himself utters a caution about the scope of business:

> It has been pointed out to the state authorities that the government cannot undertake, even if it were one of its appropriate functions, to institute and operate training schools in good citizenship; that the making of a citizen of the United States is also the making of a citizen of the state in which the petitioner resides; and the results of such action are more immediate and more frequent in their effects upon state than upon Federal interests.

At that time the work of the Bureau force consisted chiefly of sending to the school authorities lists of aliens residing in their respective districts who had filed declarations of intention and petitions for naturalization, with intent that they should secure the attendance of

[1] *Report of the Commissioner* for fiscal year ending June 30, 1916.

such aliens upon public-school courses of training in good citizenship. The Commissioner pointed out that

> The extent and character of this course of mental training must depend upon the enlightenment of the school authorities which experience alone can give.[1]

From this time on, however, the Commissioner's reports are characterized by an increasing emphasis upon the educational aspect of the Bureau's work, the things to which it had formerly devoted itself diminishing in emphasis; while, at the same time, both in the reports and in activities not therein disclosed, the Bureau was seeking wide extension of its scope and powers, although its normal work was suffering from the shorthandedness of which it had complained ever since the Bureau was established.

EXTRA RESPONSIBILITIES SELF-SOUGHT

It has been the habit of the responsible heads of the Bureau of Naturalization, in reply to any suggestion that the Bureau was "overextending" itself in the assumption of educational functions, or that there was confusion and conflict between the activities of the Bureau and those, for example, of the Bureau of Education in the Department of the Interior, to revert, as in the Commissioner's report for 1916, to the fact that the law imposed upon the Naturalization Bureau "charge of all matters concerning the naturalization of aliens"; to declare that it is "only complying with the law," or "endeavoring, under great difficulties, to perform the duties laid upon us by Congress." This is plausible enough on its face; but the fact is that, generally speaking, no duties have been laid by Congress

[1] *Report of the Commissioner* for fiscal year ending June 30, 1915, p. 33.

upon the Bureau from the beginning save those which it has urgently sought; virtually all legislation affecting it—especially that legislation relating to "Americanization"—has been drawn by the Bureau and actively lobbied for in Congress by representatives of the Bureau. More than that, the Bureau has been exceedingly and notoriously aggressive in seeking widely extended scope and powers.

One of the most striking examples of this appeared in the so-called "King bill," of the Second Session (1918) of the Sixty-fifth Congress, introduced by Senator King of Utah, with the purpose of establishing in the Department of Labor "a Bureau of Citizenship and Americanization, for the Americanization of Naturalized Citizens," etc.:

> The province and authority of this Bureau [says one print of this bill] shall be the Americanization of persons seeking American citizenship by naturalization, *and of native and naturalized citizens*, for the purpose of arousing a higher regard for the privileges and responsibilities of American citizenship *in the minds of all citizens and permanent residents of the United States*, and the administration of the naturalization laws *and Americanization work throughout the United States*.

The bill would have authorized the Director of Citizenship, therein provided for at a salary of $5,000 a year,

> to make diligent investigation into the conditions and environment of permanent residents and citizens; to ascertain their sentiments of loyalty to the United States, their progress in the knowledge of American institutions, and the use of the English language; their relations of a social and commercial nature with their neighbors and fellow citizens, and to promote the betterment of that loyalty, knowledge, use, and relationship, and afford them such advice as may be of benefit to them and tend to increase their regard for our institutions of government, and to do such other things as may be prudent and wise in laying a foundation for a strong

sense of loyalty and dedication to our institutions of government on the part of all permanent residents, candidates for naturalization, and citizens; and to show their progress in the adoption of the language and customs of the United States in reports from time to time upon the work of the Bureau to Congress and the Secretary of Labor, together with recommendations to Congress for *further legislative measures to enlarge the province and effectiveness of said Bureau for the Americanization of such citizens and permanent residents*, and to insure their attachment to the institutions of the United States.

The bill was not so much to create a new bureau, as to transmute the Bureau of Naturalization; the Commissioner of Naturalization was to become a subordinate of the Director of Citizenship, the entire personnel, machinery, and functions of the present Bureau of Naturalization being absorbed in the Bureau of Citizenship and Americanization.

That the scope of this revolutionary creation, with its extension of jurisdiction over *all* citizens, their social and commercial relations with each other, and their personal loyalty, was no inadvertence of exuberant language, is clear to an examination of an earlier version of the measure, which specifically confined the supervision and missionary *espionage* to "naturalized" citizens, "including the attitude of such citizens whose native tongue is foreign . . . and their relations of a social and commercial nature with their neighbors and fellow citizens who are natives of this country or who have become thoroughly Americanized." But even so early the scheme was designed "to the end that there shall be a thorough assimilation of all who permanently reside within the jurisdiction of the United States." [1]

Perhaps the most astonishing thing about this proposal is that it has the specific approval of the then

[1] Compare S. 4792, July 2, 1918, and S. 5001, October 21, 1918, Senate bills, Sixty-fifth Congress, Second Session.

Secretary of Labor, Mr. William B. Wilson, in a letter dated September 12, 1918, to Senator King, in which, over his official signature, it is declared that "the measure has been carefully considered," and that the Department approves "the main objects of the proposed legislation." That letter refers directly to the first draft of the bill, last quoted above.[1]

However that be, and whatever might have been the views of the Secretary of Labor upon further consideration of the proposed legislation, the ambitious scheme died aborning. But it had a resurrection in another form, equally abortive, though still exhibiting the appetite of the Bureau for enlarged responsibility. At the instance of the Bureau there was inserted in one of the tentative drafts of the Sundry Civil Appropriation bill before Congress in the spring and summer of 1919[2] the following provision for an enormous addition to the jurisdiction, duties, and responsibilities of the Bureau of Naturalization:

. . . The authority to promote instruction in citizenship and English, now being exercised under the supervision of the Director of Citizenship, is hereby extended to include soldiers and sailors *and all persons of the age of eighteen years and upward, and those in penal institutions*. . . . In discharging this responsibility, the Director of Citizenship shall disseminate information regarding the institutions of the United States government in such manner as will best stimulate loyalty in those institutions, and secure the aid of civic, educational, community, religious, racial, and other organizations, and shall compile statistical information as to aliens

[1] The Secretary's letter is given in full in the *Annual Report of the Commissioner of Naturalization* for the fiscal year ending June 30, 1918—though it bears a date more than two months later than that of the report itself.

[2] Sixty-sixth Congress, First Session, H. R. 6176; Calendar No. 43 (Senate), Report No. 52, June 23, 1919.—Calendar Day, June 26, p. 179.

in their relations to citizenship, and for expenses incidental thereto, including the rental or purchase of motion pictures and the transfer of any motion-picture negatives from branches of the government organized especially for war activities, remaining in the possession of the government, and such transfer to be without charge upon any appropriation. Credit for such transfers shall be given on the records of the Treasury Department in the final accounting by such specially organized branches of the government.

A fairly large order! This adventure, like the previous one, failed of consummation; but, nevertheless, there was (until a very recent time when the illegality of the whole business was brought to attention) a Director of Citizenship, even though Congress had given him neither status nor powers, and he was in being only by a vigorous stretching of legislation intended, if one may judge by what it says, for quite another purpose.

Section 11 of the law of May 9, 1918, devoted entirely to the subject of naturalization of alien enemies, contains a provision:

. . . that the President of the United States may, in his discretion, upon investigation and report by the Department of Justice, fully establishing the loyalty of an alien not included in the foregoing exemption [relative to the apprehension of alien enemies], except such alien enemy from the classification of alien enemy, and thereupon he shall have the privilege of applying for naturalization; and for the purpose of carrying into effect the provisions of this section, including personal services in the District of Columbia, the sum of $400,000 is hereby appropriated, to be available until June thirtieth, nineteen hundred and nineteen, including travel expenses for members of the Bureau of Naturalization and its field service only, etc.

Out of this emergency appropriation, made under stress of war conditions, for the declared purpose of dealing with enemy aliens, the Bureau provided for a

large extension of its work, and for much-needed augmentation of its efficiency in the field, and for establishing the extra-legal position of Director of Citizenship, with more or less obvious functions. This would explain the somewhat cryptic allusion in the proposed amendment to the Sundry Civil Appropriation bill quoted above, to the "authority *now being exercised by*" rather than imposed by law upon "the Director of Citizenship," etc.

But just because it was an emergency appropriation, the new Congress showed no disposition to renew it, and in its absence the whole extra-legal structure under the direction of the Director of Citizenship was imperiled, and in order to save it from complete destruction very serious economies became necessary. The bearing of so large a windfall upon the general work of the Bureau may be inferred from this list of the appropriations for the Naturalization Service in each fiscal year since, and including, that ending June 30, 1908, during which the service was established:

TABLE V

APPROPRIATIONS FOR THE NATURALIZATION SERVICE FOR EACH FISCAL YEAR FROM 1908–1919

1908[1]	$193,000
1909[1]	150,000
1910	150,000
1911	152,861
1912	175,000
1913	200,000
1914	225,000
1915	250,000
1916	275,000
1917	275,000
1918	305,000
1919	675,000

[1] The field force was under Department of Justice during 1908 and 1909.

A further instance of the desire for additional powers, which characterizes the "personal equation" of the Naturalization Bureau, appears in a bill which was before Congress in the winter of 1919–20,[1] introduced by Representative Johnson of the state of Washington, which would have provided, among other things:

Sec. 4. That the promotion of the public schools in the training and instruction of candidates for citizenship, now being carried on by the Division of Citizenship Training of the Bureau of Naturalization, is hereby extended to include all persons of the age of eighteen years and upward, who shall attend classes of instruction conducted or maintained by any civic, educational, community, religious, racial, or other organization, under the supervision of the public-school authorities, and the provisions of the ninth subdivision of Section 4 of said Act are hereby made applicable to this added authority. In discharging this additional authority the Director of Citizenship is also authorized to disseminate information regarding the institutions of the United States government in such manner as will best stimulate loyalty to those institutions, making use of the means heretofore provided, and through the use of motion pictures. The motion pictures and motion-picture negatives in the possession of the various branches of the government shall also be available for these purposes. In this work the aid of civic, educational, community, religious, racial, and other organizations may be secured by the Division of Citizenship Training, in which statistical information shall be compiled as to aliens in their relation to citizenship. The foregoing shall apply to the residents of the Panama Canal Zone.

ENORMOUS ARREARAGE IN BUREAU'S WORK

From the very beginning of the activities of the Bureau, it has complained of its inability properly to perform

[1] H. R. 9949 (Committee print); Sixty-sixth Congress, First Session, October 15, 1919.

its functions because of lack of clerical force; at the same time pointing out very appropriately that it was a good deal better than self-sustaining from the financial point of view.

Commissioner Campbell, in his annual report to the Secretary of Labor, for the fiscal year ending June 30, 1911, said:

> At all times the clerical force has been insufficient, even with the aid of temporary assignments from other offices of the Department, to keep up with current work. This has resulted in large undisposed accumulations of official papers; mortifying delays in making responses to letters from private individuals and public officials, the continuous exaction of labor from the clerks for long periods after the conclusion of the ordinary official hours, on holidays, and even on Sundays; and, consequently, impaired the accuracy and quality of the work actually accomplished.

The report for 1913 declares that such increase of personnel as had been allowed had "not been sufficient to accomplish anything in the way of bringing up the arrearages which have been steadily accumulating ever since the service was organized in 1907." These arrearages were described as consisting of "unindexed and unexamined certificates of naturalization and declarations of intention," and this condition prevailed, notwithstanding an average daily overtime estimate in hours, as equivalent to full time, of more than two persons (2.36). The report for 1914 acknowledged an increase of nine clerks, but stated that "the arrearages of work continued to increase." So it goes on, the following report (1915) disclosing an arrearage of 346,762 declarations of intention and 395,719 certificates of naturalization unindexed, and thousands more of each unexamined. In the following year's report is acknowl-

edged the "elimination of the practice heretofore pursued of indexing separately the declarations, petitions, and certificates," it having been found impossible, even with four more clerks, "to reduce the work that has fallen into arrears." Yet in that same year's report begin the ecstatic descriptions of a very wide expansion of activities in the field of education.

The seriousness of this curtailment of records at Washington—all but fatal to the individual alien who wants to prove something about his naturalization case by reference to such records—took on a public aspect with the operation of the Selective Service Act (the so-called "draft law") when aliens, desiring exemption as such, began to assert to the local exemption boards that they never had declared intention to become American citizens. "The assistance of the Bureau is constantly invoked by the draft boards throughout the country for official report on the claims to exemption from military service by aliens who profess to have made no declaration of intention to become citizens," says the opening page of the Commissioner's report of July 1, 1918, notwithstanding the more ingenuous—not to say more truthful—confession of a year before that "*The unavoidable abandonment of indexing declarations has made it impracticable to furnish information sought in regard to aliens claiming exemption from military service.*" [1]

At the date of that report, there were, unexamined, in the Washington office 247,373 declarations and 480,553 certificates; one year later—owing, perhaps, largely to the vast and sudden addition of alien soldiers naturalized, and the business incidental thereto, if not quite as much to the absorption of the Bureau in its increasingly ambitious educational campaign—the ar-

[1] *Report of Commissioner of Naturalization*, 1917, p. 27.

rearages had passed the half-million mark, with 628,713 declarations and 578,944 certificates of naturalization unexamined.

Not even by means of a complete, current, and up-to-date index of declarations could the Naturalization Bureau have proved whether or not any given alien ever had filed a declaration whose existence would indubitably entitle the United States to his military service, unless it included the absolutely impossible feature of a reference to every old, as well as new-law declaration. But such an index as might have been kept of declarations under the "new law" would have helped enormously. As it was the field force did its best, and ran down many cases through the records in the district offices and local courts.

THE ALIENS SUPPORT THE BUREAU

In point of fact, the Bureau of Naturalization is, as the Commissioner more than once has pointed out, completely self-supporting. Bare good faith to the petitioner for naturalization would seem to demand that the money he pays in in fees should be used by the government to afford adequate service in his behalf. In every year, except 1918–19, since the present system was established, the receipts from naturalization fees have, by a wide margin, exceeded the amount appropriated for the Naturalization Service; the amount representing that margin has simply gone into the general receipts of the United States, subject to appropriation by Congress. Those receipts, and the margin referred to, which might well have been devoted to improving the Naturalization Service, have been, according to the Commissioner's reports, as follows:

TABLE VI

RECEIPTS FROM NATURALIZATION FEES AND DISBURSEMENTS FROM VARIOUS APPROPRIATIONS FOR THE ENFORCEMENT OF THE NATURALIZATION LAW FOR RENTS, SUPPLIES, AND MISCELLANEOUS EXPENSES, FISCAL YEARS 1907 TO 1920 [1]

YEAR	NATURALIZATION FEES	COST OF ADMINISTRATION	DIFFERENCE IN FEES RECEIVED OVER COST OF ADMINISTRATION
1907	$65,129.00	$29,243.18	$35,885.82
1908	166,873.90	232,728.05[2]	—65,854.15
1909	172,202.13	194,428.45[2]	—22,226.32
1910	221,766.38	176,415.98	45,350.40
1911	290,551.52	222,831.15	67,720.37
1912	338,315.33	257,678.99	80,636.34
1913	350,716.60	290,026.20	60,690.40
1914	450,228.55	331,517.26	118,711.29
1915	441,764.49	363,593.11	78,171.38
1916	410,272.55	389,075.90	21,196.65
1917	635,927.52	393,240.15	242,687.37
1918	507,932.50	416,486.84	91,445.66
1919	597,087.97	812,056.38	—214,968.41
1920	664,539.20	753,383.83	—88,844.63
Total			$842,495.68
Less deficits			391,893.51
Excess of fees received over cost of administration			$450,602.17

[1] Department of Labor, *Annual Reports for 1920*, p. 799, Table 24.

[2] Included in these expenditures are appropriations to the Department of Justice for maintenance of field force prior to the transfer to the Department of Commerce and Labor—*to wit*, fiscal year 1908, $193,000; fiscal year 1909, $150,000.

The Commissioner puts his finger on the ethical point involved, when he says, as for example in his report for the fiscal year 1918–19: [1]

It is interesting and highly suggestive to note from the next table that, notwithstanding the "hard-luck story" told

[1] *Report of the Commissioner of Naturalization*, 1918–19, pp. 30–31.

in this report as to arrearages of work and the delays and the omissions of first one and then another important feature of that work, the beneficiaries of such work—those who have paid their money for prompt and efficient service—have annually for years past paid into the Federal Treasury more than was used for the purpose for which it was paid.

The aggregate of such surplus items, which cannot be regarded as other than a trust fund in essence, and even deducting the amount expended for military naturalizations amounts to $539,446.80. It would easily have been much more if the clerks had been furnished to serve the aliens who desired to become citizens. The burst of public sympathy for, and interest in, the young alien who entered our service to make the "supreme sacrifice" for democracy which found expression in a special appropriation of $400,000 to pay the cost of making these young heroes citizens in law, as they already are in heart, over a period of 13½ months, did not, in fact, cost the people of this country as a whole anything. As long as over half a million dollars of the fund contributed by the newly made citizens from civil life remain unexpended for the purposes for which it was paid, it would appear to the ordinary observer that they, and not the general body of American citizens, gave the $400,000 to pay for the cost of giving free of charge the well-deserved "priceless heritage of American citizenship" to the young alien soldiers who fought for liberty and this country.

The government of the United States is making money out of the business of admitting aliens to citizenship, and is not keeping fairly or efficiently its end of the transaction. In the period since the enactment of the Naturalization Law, as Commissioner Campbell has said, aliens in pursuit of citizenship—even though thousands of them did not get it!—have paid fees to an amount exceeding by more than half a million dollars the total cost of the Naturalization Bureau—a margin itself larger by more than $200,000 than the

total appropriation for the Bureau in any year save one.[1]

This money, if devoted to the purposes to which morally it belonged, would have been ample to supply the supervisory and clerical force in the Bureau necessary to make prompt and effective examination of declarations, petitions, and certificates, and to maintain a proper and complete system of records, and of indices by which those records could be made available for reference by the alien, the government, and the public. *Provided* always that the Bureau did not permit itself to be diverted and swamped by extraneous and self-assumed functions in the field of public education which it is not adapted, either by the logic of good administrative organization or by the nature and aptitudes of its personnel, to perform. It has never been within arm's length of keeping up with the business committed to it by law, and by the nature of its function; nevertheless, during the past decade at least, it has taken on voluntarily and, with increasing exuberance of ambition, sought additional legislation to authorize activities and functions of an extraordinarily inclusive and far-reaching character in the domain of education—apparently even of native-born persons—beyond any possibility of effective accomplishment without very great increase of expenditure for personnel and material change in the "personal equation" of the present force.

It is no doubt agreeable to compile and publish statistics purporting to show the degree of "co-operation" between the public-school authorities and the

[1] That was the year (1918–19) of the emergency appropriation of $400,000, referred to heretofore in this chapter, p. 181, for dealing with persons technically alien enemies, but, nevertheless, individually loyal, which was used for the establishment of a new and hoped-to-be-permanent division in the Bureau, under a "Director of Citizenship."

Naturalization Bureau; imposing totals can be presented if every slightest indication of general interest in the education of the foreign born is classified and heralded as "co-operation" and no allowance whatever is ever made for failures or defections.[1] All this might be tolerated or condoned; but it becomes a rather ghastly spectacle when its most conspicuous consequence is the neglect of legitimate business of the highest importance to the aliens who pay for but do not get it, and to the people of the United States.

The Naturalization Bureau, in the fundamental nature of its function, has in all conscience enough to do! A "man's-size job" is to be found in the scrutiny of the petitioner for citizenship, from the day when he files his declaration of intention to that when he receives, or is refused for good reason, his certificate of naturalization. The natural business of the Bureau is to be the disinterested but vigilant informant of the court as to the facts regarding the applicant; the watchdog of the standards by which aspirants for our active membership are judged—also the keeper of records minutely accurate and in cross-referenced detail up to the minute.

FITNESS OF CANDIDATES

There is great need of a better method for ascertaining the fitness of candidates for citizenship than obtains at present. Various suggestions have been made to improve the practice. One is the creation of a system of "traveling commissioners," appointed perhaps by the courts, who would hold sessions at convenient times and places. Another is that the function of naturalization should be removed from the judicial to the administrative sphere, so that examinations and admissions

[1] See F. V. Thompson, *Schooling of the Immigrant.*

should both be under the control of the Naturalization Bureau or some other administrative branch of the Executive.

There is much to be said in support, especially, of the latter suggestion. But there seems a weight of reason in favor of maintaining the peculiarly American practice of lodging this solemn function in what is, on the whole, our most impressive organ of government—the court. As a rule, the courts are performing the function with increasing sense of the importance and dignity of the proceeding. It would be simple, and require little either of new legislation or additional personnel or duties, to make the Naturalization Examiner now in being and on duty, already equipped with honesty and zeal, something in the nature of a Master, representing the court in the taking of testimony, and reporting thereto his findings and recommendations. Thereupon the judge could pursue such further inquiry as he thought proper, accept or reject the findings, and enter his order accordingly.

In the great preponderance of practice this is what actually happens now. The proceeding should be the subject of sufficient stenographic record, to be attached to the papers on file in the court and in the Naturalization Bureau at Washington, and the index, certainly at Washington, should be so minutely exact, prompt, and accessible, that the record of every case, from declaration to final adjudication, would be available like any other public record upon a moment's notice.

Further than that: Every alien who lands upon our shores should receive at the time his suitably detailed and descriptive certificate of lawful entry, with finger prints, if you please, duplicating a permanent record in the office of the Immigration Service; this certificate, and the record underlying it in case of its loss, should be the prerequisite to the declarations and all other pro-

ceedings leading to his permanent admission to citizenship. It would obviate an infinite deal of the confusion which now too often surrounds his later adventures in this direction; it would be his protection and the protection of the nation. All matters concerning him now are at the mercy of practices hardly deserving the name of system.

"PERSONAL EQUATION" OF THE PUBLIC

In consideration of all this business of naturalization, and the various projects for improving its conditions, it must be remembered that it is only within very recent years—virtually only since the beginning of the World War with its suddenly aroused or anyway suddenly accentuated excitements of interracial friction here in America, and of ebullitions of loyalty to the various fatherlands engaged in that struggle, on the part of foreign-born residents here—that the people of the United States, of this generation at least, have taken any interest in the behavior, affairs, and assimilation of the alien. It is two-thirds of a century, more or less, since the subsidence of the last important uproar on the subject. A few social-settlement workers and missionaries in the great cities, a few writers on sociological subjects, here and there some more than ordinarily facile and entertaining writer in English among the foreign born themselves, have tried to draw public attention to the seriousness and magnitude of the problem growing within our national life. These have pleaded for a better understanding of the people of other races coming in vast floods to make their homes with us, and for better conditions to govern their assimilation.

But Americans generally pursued their self-absorbed, happy-go-lucky way, giving little attention to these

Jeremiahs and Cassandras; pooh-poohed at the warnings, or vaguely hoped that all would come out right in time. Meanwhile, most of them followed the usual human course of shrinking from all avoidable human contact with these outlandish folk of language and customs different from their own; rather glad, on the whole, that they herded, as people in strange climes will, in congested "Little Italys," "Little Hungarys," "Deutschlands," and "Ghettoes"—and in "slums" in general. They surrendered to foreign colonies not only abandoned farm-lands, but even large portions of great cities and great states; vaguely grumbling when they perceived that great political power went with that growth of foreign-speaking population. As a whole, they washed their hands of the whole matter, or at most viewed the encroachment with more or less solicitous disdain.

Meanwhile, most of those who have recognized the existence of a menacing problem have acquired, generally on the foundation of the subtle race-prejudice to which most of us are subject, a vast deal of misinformation on the subject—some of it in the form of widely accepted misinterpretations of official and quasi-official "statistics."

VII

SOME STATISTICS CONCERNING IMMIGRANTS, "NEW" AND "OLD"

We are talking and behaving now about the immigration of the past few years—allowing for the vastly greater bulk of it and the intensified peril involved in its bulk—just as we talked and behaved about the Irish immigration that began in the early '30's and the German immigration that began to bulk large in the early '40's. Comparatively small as was the size of that joint inflow, it made the problem that awakened the Know-Nothing and Native-American movement of the mid-century, and eventually culminated in the naturalization legislation now in force. Each phase of immigration has been "the new immigration" at its time; each has been viewed with alarm; each has been described as certain to deteriorate the physical quality of our people and destroy the standards of living and of citizenship.

The Scandinavians, who began to come in considerable numbers in 1879; the Italians, whose immigration became impressive in the late '80's; the Russians and Austrians, whose surge became formidable about 1890; the Greeks, never very numerous, but swelling in numbers from 2,339 in 1898 to 36,580 in 1907, their highest tide—each in turn passed or are passing now through the same stages; of comparatively good-natured welcome at the outset, when they were few, and viewed with curiosity; of increasing resentment, as they became

noticeable in competition for jobs; at last of angry and vociferous denunciation as a "peril"; then subsiding into acceptance and assimilation into the body social. "Paddy the clodhopper," butt of the comedian and the newspaper jokesmith, came over from Ireland as green as shamrock, worked at unskilled labor with pick and shovel on railroads and elsewhere, was herded and bribed into citizenship and politics, got on the police force and into the contracting business, increased in prosperity, bought real estate, and has sent down through the years and into the fabric of our population a posterity whose substantial contribution to our life no one now questions. He did not have to learn the language, and that fact greatly facilitated his assimilation. Fritz and Gretchen—we called them "Dutchmen" then—had to climb over the language barrier, but they did it, and their progress has followed the same general course. So did Ole and Chris and Sven and Hilda from Scandinavia, and Salvatore, then the "Dago." Salvatore already owns apartment houses. Russian and Austrian, Greek, Rumanian, Portuguese, and so on, the latest comers, are in the midst of the same process.

The vast numbers, especially of the Russian Jews and Austro-Hungarians, herded in masses in certain of our great cities, have given us a kind of social indigestion; it must be cured, if at all, by a slow process of absorption, and we have not yet learned just what to do about it. Certainly unintelligent excitement, to say nothing of unlawful violence and mob persecution, and the exaggeration both of the degree and of the nature of the ailment, offer small promise of betterment. Nature, the normal processes of population movements and racial assimilation, work calmly on while we shout and worry. And candid study of the process is reassuring. Conditions have been confused,

resentments aroused, and progress retarded by the various kinds of hysteria excited by the World War—but then, there was similar hysteria in the old Know-Nothing days, and we lived through it; it seems rather silly now. We shall live through this.

PAUCITY OF DEPENDABLE INFORMATION

Meanwhile we may try to know and understand the facts. This is not so easy as might be supposed, for the facts are hard to get. The student of the naturalization and political assimilation of the foreign-born citizen finds himself seriously embarrassed by the paucity of definite information on the subject in any of its aspects. To be sure, there is a considerable, though somewhat fragmentary, literature about it, and generalizations of a sweeping and rather dogmatic character have gained wide currency—impressions and prejudices, which it will no doubt be difficult to dislodge, even though such information as may be available, critically examined, entirely fails to support them. In hardly any other field may one find a better illustration of the mischief that may be wrought by inadequate or misinterpreted statistics, creating legends which cannot endure the test of candid, to say nothing of scientific, examination.

This is not to say that there is no material on the subject. There is always the census; there are the reports of the Immigration Commission of 1907; there are the reports of the Commissioner of Naturalization. There are numerous books, essays and pamphlets, by men and women who, to a greater or lesser extent, have come to be regarded as experts on the subject of immigration. But, as we shall see, these are almost all entitled to substantial discount, or at least discriminating study, with results conducive to a better understanding, to a

readjustment of some ideas which, although mistaken, have come to be regarded as fundamental.

In the files of the Naturalization Bureau at Washington is a vast mass of original data which would be of priceless value in the study of the way in which those who would be "Americans by Choice" make their initial efforts in that direction; showing under oath their individual age, birthplace and race, date of arrival in this country, date of declaration of intention to become a citizen, marital and occupational status, details of the disposal of the petition for citizenship, and other facts constituting information ample for intelligent interpretation of aspects and relationships now little understood, not understood at all, or, more commonly, altogether misunderstood. These data are contained in the copies of the declarations of intention, petitions for naturalization and certificates of naturalization, issued since the institution of the Naturalization Service under the Act of 1906. The magnitude of this statistical treasure may be judged from Table VII.

Each one of these nearly three million declarations of intention, and more than a million petitions—not to speak of the final certificates of citizenship—contains what amounts almost to a cross-section of the life history of an immigrant. Upon each petition is indorsed the record of the court's action, acceptance or denial, and the reasons for denial are, if possible, more important than the fact of acceptance for the purposes of study of the immigration question in its political aspect.

Owing in part to the chronic insufficiency of the staff in the Naturalization Bureau—not only preventing any proper statistical record or analysis of this material, but of late years compelling a lamentable curtailment and even the abandonment of such indexing as is obviously indispensable to the most routine official

supervision and understanding;—in part to the absorption of the Bureau in its elaborate educational propaganda, and in part to a lack of appreciation of the value of this material by the officials there in charge, the

TABLE VII

NUMBER OF DECLARATIONS OF INTENTION AND PETITIONS FOR NATURALIZATION FILED, AND CERTIFICATES OF NATURALIZATION ISSUED BY THE BUREAU OF NATURALIZATION, 1907–20 [1]

YEAR	DECLARATIONS	PETITIONS	CERTIFICATES
1907 [2]	73,723	21,094	7,953
1908 [3]	137,229	44,029	25,963
1909	145,794	43,161	38,372
1910	167,226	55,038	39,206
1911	186,157	73,644	56,257
1912	169,142	95,627	69,965
1913	181,632	95,186	82,017
1914	214,016	123,855	105,439
1915	245,815	106,317	96,390
1916	207,935	108,009	93,911
1917	438,748	132,320	94,897
1918	335,069	110,416	151,449
1919	346,827	107,559	217,358
1920	200,106	166,925	125,711
Total	3,149,419	1,283,180	1,205,170

[1] *Annual Report of the Commissioner of Naturalization*, 1919, p. 16.
[2] Nine months only.
[3] First full year of 12 months.

leaders in Congress and the public in general, it has remained in an undigested and now probably indigestible mass in the files of the Bureau. For nearly fifteen years it has been accumulating. To collate and analyze it would be a prodigious job. Yet, as appears from the results of a very modest venture in this direction on the part of the Americanization Study, some of

them presented in this volume,[1] it would be immensely worth while. And, what is more important, it probably would go far to modify, if not to revolutionize, many prevailing ideas and afford a new and sounder foundation and point of departure for theory and for guidance of practice as regards the assimilation of the immigrant into the American body politic.

The annual reports of the Commissioner of Naturalization, like those of many other government bureaus, are written not so much to afford information to the public as to extol the work of the Bureau, pointing out the remarkable extent of the ground covered, the great number of letters written, and of cases handled by a force grievously and increasingly inadequate since the very beginning of the service, and so on. They are, however, most unsatisfactory as a source of sociological information; particularly barren are they of any hint of information regarding the various races whose representatives seek citizenship; their relative promptness in seeking and success in getting it; their respective standing as regards the various reasons for denial. They do show voluminously how many declarations and petitions are filed annually in each state and subdivision; increase or decrease in totals; how many clerks of courts are delinquent in sending in the government's share of fees, and other more or less significant *minutiæ* of the routine work of the field and clerical force and the courts.

VAST ARREARAGES IN EXAMINATIONS

Moreover, for the past four or five years, the bulk of the Bureau's reports has been increasingly augmented by large sections devoted entirely to its efforts in the field of education, and its relations, actual, attempted

[1] Chap. viii, p. 225 *et seq.*

and imaginary, with the public-school authorities. The degree to which the Naturalization Bureau has neglected, perforce of circumstances, the study of the material under its nose is apparent in the fact that the Commissioner's report for the fiscal year ending June 30, 1919, says, in so many words, not only that it no longer is preserving in its files any records of general correspondence, but that it has altogether ceased any pretense of examining naturalization papers!

To illustrate the expedients to which the Bureau has been compelled to resort, in order to relieve the files section, it has adopted the practice of returning, with its replies thereto, letters of general inquiry not referring to some specific naturalization case already a part of the Bureau file, thereby leaving no record of such correspondence.

It has virtually ceased to make an examination of certificates of naturalization to insure the discovery and correction of errors, and it has abandoned a personal card-index of naturalized aliens, etc., not as a matter of choice but of compulsion.[1]

The magnitude of the arrearage thus naïvely accounted for, and the bulk of the potential information involved, may be seen in the fact that on July 1, 1919, according to the Commissioner's own figures,[2] there were unexamined in the Bureau at Washington *more than one million (1,011,676) declarations of intention, 26,726 petitions for naturalization, and 721,742 certificates of naturalization.* This was an increase in arrearage, for one year alone, of 382,963 (60 per cent) in declarations; of 73 per cent in petitions, and of nearly 25 per cent in certificates. At the very time when the excitement about vigilance in admitting new citizens was at its height, the Naturalization Bureau was divert-

[1] *Report of Commissioner-General of Immigration,* 1919, p. 24.
[2] *Ibid.,* p. 25.

ing to other channels a vital energy which might have been devoted to that vigilance and to collating the elementary information already in its possession, for the benefit of lawmakers and others needing information in dealing intelligently with this subject.

REPORT OF THE IMMIGRATION COMMISSION OF 1907

In point of fact, the only substantial body of statistical information about the naturalization of the foreign-born voter which hitherto has been even ostensibly sufficient for the student as a basis for any racial comparisons, is that gathered by the United States Immigration Commission of 1907. That body, created by an Act of Congress approved February 7, 1907, of which Senator William P. Dillingham of Vermont was chairman, consisted of three Senators, three members of the House of Representatives, and three other persons appointed by the President of the United States, and was directed by the statute to "make full inquiries, examination, and investigation, by sub-committee or otherwise, into the subject of immigration, . . . " and to report such conclusions and recommendations as in its judgment might seem proper.

The information gathered by this Commission is very voluminous, and has been of great value to sociologists and others concerned with various aspects of the subject. Indeed, its report has come to be called "the bible of the immigration question." Nearly all the modern writings on the subject have been based upon it in at least a general way, and their color taken largely from its conclusions and its point of view.

LEGEND OF "THE NEW IMMIGRATION"

To this report is attributable almost entirely the familiar conventional generalization that there is a marked

distinction in what might be called *quality of assimilability*, between the immigration of former years and that of the three decades preceding the Great War; between the so-called "old immigration" and the "newer." This distinction is drawn in the report and, in most of the writings of individuals, based upon it, between the group of races from northern and western Europe—the English-speaking races, the Scandinavians, Germans, Dutch, Belgians, French, and so on, and those from southern and eastern and southeastern Europe, Russia, Austria-Hungary, the Balkan States, Italy, Greece, Turkey-in-Europe, Asia Minor, etc.

This *quality of assimilability* was regarded by the Commission as inferable to a large extent from the degree to which the representatives of these racial groups concerning whom it got information of various kinds were naturalized or had exhibited interest in naturalization at least to the extent of declaring intention to become citizens. It was assumed in a general way that a racial group showing a high proportion of persons who had become citizens, or taken steps thereto, might fairly be regarded as more adaptable to American life, customs and ideals than one in which relatively few naturalized citizens were found. With this assumption as a starting point, it seemed reasonably obvious that inasmuch as the "older" race showed the higher percentage of naturalized persons, the inference of a difference in essential civic quality followed as a matter of course.

Inasmuch also as this inference coincided with the general public impression and prejudice to precisely the same effect, it occurred to nobody to dispute or seriously to question its validity. Anybody could tell you offhand that the Englishman, Frenchman, German or Swede was more available for citizenship and more easily assimilated than the Syrian, Croatian or Sicilian. It was a matter of common knowledge! And the Immi-

gration Commission gave you the statistics—as if you needed any! For example, here is a table that shows the per cents naturalized for the "old" and "new" races who had been in the United States ten years or more. As is to be expected the "old" races show the highest per cents on both counts. . . .

The Commission recognized a general "tendency on the part of wage-earners of foreign birth to acquire citizenship," and that this tendency "increased according to length of residence in this country." But it construed its statistics as showing that while "more than three-fourths of the Bohemians and Moravians, Danish, German, Irish, Norwegian, Scotch, Swedish, and Welsh races who had been in the United States ten years or longer had been fully naturalized," there was a "lack of political or civic interest" (only 37.7 per cent) on the part of the southern and eastern European wage-earners" with a similar residence of ten years or longer, and proceeded to assert that these did not possess that "tendency to acquire citizenship which increases according to length of residence in this country." This assertion was supposed to be supported by the facts given in the above table regarding the races from southern and eastern Europe showing low percentages of individuals who had come to this country when twenty-one years of age or older, who had lived here ten years or over, and were naturalized.

The Commission regarded the table from which these facts were derived as highly significant in its implied indication of the "civic interest" exhibited and capable of being exhibited by the various racial groups.

DISPARITY IN NUMBERS AMONG RACIAL GROUPS

It should be remarked at once that inferences from these figures and others presented by the Immigration

TABLE VIII

PER CENT THAT FULLY NATURALIZED MALE EMPLOYEES ARE OF TOTAL MALE EMPLOYEES WHO WERE TWENTY-ONE YEARS OF AGE OR OVER AT TIME OF COMING, AND WHO HAVE BEEN IN THE UNITED STATES TEN YEARS OR OVER, COMPARED WITH THE PER CENT THAT MALE EMPLOYEES IN THE UNITED STATES TEN YEARS OR OVER ARE OF THOSE HERE FIVE YEARS AND OVER, BY RACE.[1]

RACE	IN UNITED STATES TEN YEARS OR OVER	
	PER CENT FULLY NATURALIZED	PER CENT OF THOSE IN UNITED STATES FIVE YEARS OR OVER
Old	74.0	80.5
Swedish	87.6	79.0
German	81.5	82.6
Irish	80.0	83.8
Bohemian and Moravian[2]	79.7	56.0
Norwegian	77.5	69.2
Danish	77.3	77.3
Scotch	76.9	80.7
Welsh	76.4	94.6
English	67.0	78.0
French	64.8	57.1
Dutch	64.7	76.8
Canadian, Other	49.6	81.0
Canadian, French	27.7	77.9
New	37.7	38.9
Finnish	65.7	38.5
Hebrew, Other	54.2	56.3
Italian, North	49.3	38.0
Hebrew, Russian	48.3	37.1
Lithuanian	41.1	39.2
Polish	39.8	44.0
Italian, South	34.0	34.8
Russian	33.6	36.8
Magyar	26.9	31.4
Croatian	26.8	23.5
Slovak	25.3	42.8

[1] Compiled by the Americanization Study from *Report of the Immigration Commission*, vol. i, p. 488, Table 100.

[2] The Bohemians and Moravians are classified by the Immigration Commission with the "new" races.

Commission require considerable discount and discrimination by reason of the fact—to which Miss Grace Abbott already has called attention[1]—that

> . . . the numbers in the different races from whom information was secured by the Commission varied so greatly as to make it impossible to accept these conclusions as indicating the assimilability of the various national groups. For example, according to the percentages the Armenians appear to be more eager to become citizens than the North Italians or the Poles; but the comparison was made on the basis of information from 171 Armenians, 4,069 North Italians, and 10,923 Poles.

This same factor of disparity in numbers operates, when a comparison of degree of assimilability is attempted, between the old and new races, with respect to residence in the United States from 5 to 9 years. The Immigration Commission gives the per cent naturalized for each race of individuals here five years. It might be expected that for this period of years conclusions could be drawn about the assimilability of the two groups of races. But here again almost six times as many individuals are classed in the new races as in the old and any general inference would be founded on insecure ground because of this disparity in numbers of cases. They, therefore, base their conclusions on the group here 10 years and over.

THE FACTOR OF LENGTH OF RESIDENCE

As we shall see also from the statistics gathered and analyzed for this volume,[2] the factor of residence "ten years or over," with all its implications, is exceedingly

[1] Grace Abbott, *The Immigrant and the Community*, 1917, pp. 248–249.

[2] Chap. viii, p. 236 *et seq.*

important—is, in fact, the major factor in the whole situation. The indictment against the "new" immigration hangs upon it, and falls down when the term "ten years or longer" is analyzed, even in the light of the statistics presented by the Immigration Commission itself in support of the indictment. Indeed, the Commission was not entirely without compunctions on this point, and presented a table exhibiting the probability that, of the male employees from whom it derived its information, those of the "older" races had been in the United States *considerably* longer than ten years, while those of the "newer" races had been here only *slightly* longer than ten years. But it did not emphasize the point, and at a superficial glance this might seem a quibble; but it is of importance scarcely to be overestimated.

TABLE IX

PER CENT OF FOREIGN-BORN MALE EMPLOYEES REPORTING CITIZENSHIP WHO HAVE BEEN IN THE UNITED STATES EACH SPECIFIED PERIOD OF YEARS, BY RACE[1]

RACE	NUMBER REPORTING COMPLETE DATA	IN THE UNITED STATES			
		5 to 9 Years		10 Years and Over	
		Number	Per Cent	Number	Per Cent
Recent Races:					
Total	43,833	26,747	61.0	17,086	38.9
Per cent of total reporting complete data	64.9	.....	85.3	.....	47.3
Old Races:					
Total	23,662	4,620	19.5	19,042	80.5
Per cent of total reporting complete data	35.1	.....	14.7	.....	52.7

[1] Compiled by the Americanization Study from *Report of Commission of Immigration Abstracts*, vol. i, p. 485.

The Commission remarks, indeed, that "on account of the difference in the length of time the various races have been coming to the United States, a comparison of the older with the more recent immigrants is hardly fair." [1] But it does fail to appreciate the vital significance of the point. And it apparently did not take adequate notice of the further fact, shown in Table IX, that of those of the "older" races who had been here over five years and reported information in regard to citizenship, *80.5 per cent had been in the United States over ten years, while only 38.9 per cent of the "newer" races had been here so long.* That is, only 19.5 per cent of the "older" races, as compared with 61.1 per cent of the "newer," had been in the country between five and nine years. This means, of course, that the immigrants of the "older" races had had on the average a much longer time than those of the "newer" to acquire "civic interest" and seek naturalization. The "over" added to five years means for the "recent" races between five and nine years in most cases, while for the "older" races it usually means more than ten. It would appear that every year of residence *added to ten* increases the probability of efforts toward citizenship.

While the races from southern and southeastern Europe show rates of naturalization ranging from 65.7 to 25.3 per cent with an average of 37.7, they also show a proportion residing in the country ten years or longer ranging down from 56.3 to 23.5 per cent with an average of 38.9.[2] Contrast this, if you will, with rates of naturalization among the northern, "older" races, of from 87.6 to 27.7 per cent with an average of 74.0, but along with that observe that the proportion of those "older," and supposedly more assimilable, races residing in the

[1] *Abstracts*, vol. i, p. 485.

[2] See Table VIII in this volume, p. 207.

country ten years or over ranges from 57.1 to 94.6 per cent with an average of 80.5!

From this point of view, the following table of the Commission becomes highly significant:[1]

TABLE X

PRESENT POLITICAL CONDITION OF FOREIGN-BORN MALE EMPLOYEES WHO HAVE BEEN IN THE UNITED STATES FIVE YEARS OR OVER, AND WHO WERE TWENTY-ONE YEARS OF AGE AT TIME OF COMING, BY RACE

"OLD" RACES		"NEW" RACES	
Race	Per Cent Naturalized and Holding First Papers	Race	Per Cent Naturalized and Holding First Papers
Swedish	92.3	Hebrew (other than Russian)	61.6
Swiss	92.1	Finnish	61.2
Welsh	87.0	Hebrew, Russian	57.2
Danish	86.8	Austrian (race not specified)	53.1
German	85.7	Armenian	49.2
Norwegian	85.6	Italian, North	45.8
Irish	82.6	Bulgarian	36.8
English	80.6	Slovenian	35.8
Dutch	79.9	Polish	33.1
Scotch	79.1	Lithuanian	32.5
Belgian (race not specified)	76.5	Italian, South	30.1
Bohemian and Moravian[2]	76.2	Russian	28.0
French	66.5	Magyar	26.8
Canadian (other than French)	56.7	Slovak	22.8
Canadian, French	31.5	Croatian	22.5
Mexican	10.0	Rumanian	21.9
		Syrian	20.7
		Greek	20.2
		Ruthenian	19.8
		Spanish	13.6
		Serbian	12.8
		Cuban	12.1
		Portuguese	5.5

[1] *Abstracts*, vol. i, pp. 485, 486.

[2] Classed as "Recent" by Immigration Commission.

Prof. Edward A. Ross, who, of all the students of this question, is one of the most uncompromising in generalizing from the reports of the Immigration Commission to the disadvantage of the "newer" races, deduced that "with the change in nationalities came a great change in the civic attitude of the immigrants."[1] He made little or no allowance for the fact that the "civic attitude" of the "newer" immigrants naturally would not have had time to develop as in the case of those who had been here longer; he made even less for any changes in industrial and social life in this country which might help to account for this alleged change in attitude, by intensifying the hardships of the only kind of employment "newer" immigrants could get, by low wages due to an overstocked labor market, or by the increased herding of foreign born in city slums, which last, of itself, might tend to retard the process of adjustment and assimilation. Prof. John B. Clark saw something of this, when he remarked that "there is far more likeness between different branches of the European family than there is between the economic conditions into which immigrants came in the third quarter of the last century and those into which they come to-day. Then they could have farms for the asking, while now most of them go into mills, mines, shops, and railroad plants, or become employees or tenants on farms owned by others." [2]

Prof. John R. Commons, discussing the differences in the proportions naturalized among the various racial groups, calls attention to the fact that "it is not so much a difference in willingness as a difference in opportunity. . . . In course of time these differences will diminish, and the Italian and the Slav will approach

[1] Edward A. Ross, *The Old World and the New,* 1914.

[2] John B. Clark, *A Documentary History of American Industrial Society,* 1910, vol. i, p. 52.

the Irishman and the German in their share of American suffrage." [1]

The war has created an entirely new situation with regard to both immigration and naturalization; it is entirely impossible to forecast the effects, either of the chaotic conditions in Europe or of the reconstruction period in America, upon the influx of foreign born into America, upon the duration of their stay here, or upon the attitude toward citizenship of those already here and entitled to citizenship by length of residence. The wholesale naturalization of immigrants in the national army during the war, regardless of length of residence or any of the other requirements ordinarily so rigidly, so meticulously enforced, has swept into citizenship so large a proportion of human material available and hitherto constituting the bulk of the "naturalization problem" that the old generalizations have become both useless and misleading. It will be long before such immigrants as are now coming, or may come during the next five years, can be the subject of intelligible statistics—especially since nobody is collecting or collating any statistics worthy of the name.

Even the statistics afforded by the census have been the subject of uncritical use on which pessimistic generalizations have been based. The Thirteenth Census (1910) showed for the decade since that of 1900 a decrease of 12.4 per cent in the proportion of foreign-born white males twenty-one years of age and over naturalized. Referring to this decrease, Professor Ross predicted [2] that, "as things are going, we may expect a great increase in the number of the unenfranchised." Of course he could not have foreseen the war and its profound effects upon the whole question; but he might have

[1] John R. Commons, *Races and Immigrants in America*, 1907, pp. 191–192.

[2] Edward A. Ross, *The Old World and the New*, 1914, p. 266.

observed in the same census the fact that there had been a precisely identical (12.4 per cent) decrease in the number of foreign-born whites who had been in the country nine years or more—even if his prejudice on the subject of the "new immigration" prevented his recognizing in this remarkable coincidence a striking evidence of the direct relation between length of residence and naturalization.

THE FACTOR OF LANGUAGE

It would be plausible to expect that language would be a factor in governing the degree to which this racial group or that would seek naturalization. Those whose mother tongue is English, one might naturally suppose, would find it easier to acquire the necessary information, and would the sooner be absorbed into the life and atmosphere of the country, the sooner aspire to full citizenship.

The facts do not support this idea at all. And a very slight consideration of the conditions discloses the reasons. In the first place, no knowledge of English whatever is required for the declaration of intention; and only the statistics of full naturalization are of value in this matter. Both the statistics of the Immigration Commission, and especially those compiled by the Americanization Study, make it clear that, on the average, more than ten years' residence in this country precedes final naturalization. It is a rare case in which during that ten years the petitioner has not acquired a speaking knowledge of English sufficient for all his practical purposes.

The statistics of the Immigration Commission themselves show how little the original knowledge of English has to do with the matter.[1] For the persons from

[1] See Table X, p. 211.

whom the Commission got information, who had been in this country ten years or over (racial groups represented by 100 individuals or more), the percentages of those fully naturalized exhibit the fact that the Swedish and German show a higher rate than the Irish; the Bohemian, Moravian, Norwegian and Danish outrank the Scotch, Welsh, and English. Even for those who have been in the country only five to nine years the Swedes show the highest percentage.[1] That length of residence, rather than native language, is the dominant factor in determining interest in citizenship, stands forth in Table VIII, which gives percentages by race of those in the United States ten years or longer, and of such of these as have been fully naturalized.

LENGTH OF RESIDENCE AND EARNING POWER

The fallacious nature of the assumption that there is an essential difference between the so-called "older" and "newer" races as such in respect of interest in citizenship is further disclosed by the statistics of the Immigration Commission on the subject of the wages of foreign-born laborers. The Commission found that the members of the "older" races in the households covered by its inquiry were earning more than those of the "newer" races, and occupied, generally speaking, higher positions. This, of course, was to be expected; but little stress was laid by the Commission upon the relation between these facts and the relative rates of naturalization, although it is a conspicuous relationship. Like most of the statistics compiled by the Commission in this particular field, the comparison may be criticized on the ground that the numbers upon which percentages are based and compared are small, and

[1] *Report of Immigration Commission*, vol. i, p. 488.

differ widely among the racial groups. Nevertheless, despite this discrepancy, the probability stands forth that, in addition to length of residence, the economic status—the individual and family income—is a most important factor in determining the interest of the foreign born in acquiring citizenship.

From the following table it is clear that the "older" races show a higher average rate of income in all the occupations listed than the "newer." [1]

TABLE XI

AVERAGE AMOUNT OF WEEKLY EARNINGS OF MALE EMPLOYEES EIGHTEEN YEARS OF AGE AND OVER, BY RACE AND SPECIFIED INDUSTRIES [1]

Race	Reporting Complete Data	Average Earnings per Day	Agricultural Implements and Vehicles [2]	Cotton Goods [2]	Woolen and Worsted Goods [2]	Slaughtering and Meat Packing [3]	Coal Mining Bituminous [3]
"Old"....	17,433	2.34	13.03	11.14	11.69	2.27	2.33
"New"...	65,485	1.99	11.58	8.77	8.64	1.83	2.09

[1] See Appendix for complete table. This table does not take account of lost time. [2] Weekly wage. [3] Daily wage.

When the expense of becoming a citizen is taken into consideration, the bearing of income on acquiring citizenship is important. Add to that the obvious fact that wages and general economic and social status tend to improve in the individual case with length of residence, and the situation becomes not only clear but just what common sense would suggest as probable. It ought not to require elaborate argument to substantiate the assertion that the immigrant in his early years in America is too busy getting a job and an economic

[1] Compiled from *Report of the Immigration Commission*, vol. i, pp. 379, 385, 397.

footing, acquiring a working knowledge of the language, overcoming the general prejudice against him as a foreigner, and so on, to pay much attention to the question of becoming a citizen; besides which he must, in any event, live here five years before he can do anything effective in the matter.

VOTING ON "FIRST PAPERS"

The present state of public opinion in the United States on the subject of the foreign born is very different from what it was in the earlier years of our development; this is largely, though not entirely, due to the emotions and disclosures connected with the war. When we were opening up the vast domain west of the Alleghanies, and there was great need of human labor to clear forests, break virgin land, and help in the beginnings of our industries, the immigrant was a welcome helper, and every inducement was offered to entice him to come and settle on even terms with the native born. One of these inducements was citizenship, for all intents and purposes, on very easy terms.

Prior to 1910 there were ten states in which aliens were permitted to vote on their mere declaration of intention to become citizens—subject, however, to the same conditions of length of residence in state, county, and election district as citizens. These were Alabama, Arkansas, Indiana, Kansas, Michigan, Missouri, Nebraska, Oregon, South Dakota, and Texas.[1]

That this easy acquisition of the suffrage would act as a deterrent to the completion of citizenship was to be expected, and that it has indeed so acted appears in a comparison of the proportions of foreign-born males

[1] Since that time, however, all, except Arkansas and Missouri, either have entirely withdrawn the privilege by constitutional amendment or statute, or are in process of withdrawing it.

of voting age holding "first papers" only, in the alien-suffrage states, with those in states requiring full citizenship as a prerequisite to voting.

TABLE XII

PER CENT OF FOREIGN BORN OF VOTING AGE HAVING FIRST PAPERS, AND ALSO THE PER CENT IN STATES PERMITTING ALIENS TO VOTE ON FIRST PAPERS, COMPARED WITH CERTAIN STATES NOT PERMITTING ALIENS TO VOTE ON FIRST PAPERS, FOR 1900 AND 1910 [1]

STATE	NUMBER OF FOREIGN BORN OF VOTING AGE		PER CENT INCREASE	PER CENT NATURALIZED		PER CENT HAVING FIRST PAPERS ONLY	
	1900	1910	1900 to 1910	1900	1910	1900	1910
United States.....	4,904,270	6,646,817	35.5	58.0	45.6	8.4	8.6
Alien-suffrage states (total)...	716,975	857,681	19.6	59.4	52.3	12.3	9.7
Nonalien-suffrage states (total)...	1,275,162	1,645,291	29.0	67.8	53.0	6.5	7.4

[1] *United States Census*, 1910, vol. i, p. 1071.

In 1900 the ratio of those holding declarations only was about 12 to 6 in favor of the alien-suffrage states. By 1910 this difference had diminished to about 12 to 9. If aliens of any race were interested in voting as soon as they had a chance, this interest certainly would have manifested itself in the states permitting them to vote on the "first papers" which they could get, if they chose, an hour after landing.

WHAT BECOMES OF THE DECLARATIONS?

To what extent does the declarant follow up his declaration of intention to apply for citizenship? The reports

of the Commissioner of Naturalization give each year, by states, the number of declarations of intention ("first papers") and the number of petitions for final naturalization. The most striking fact apparent in these statistics is that the number of declarations is far in excess of the number of petitions—to say nothing of what may happen to the latter by way of denials when they reach the naturalizing judge.

Now, it must be remembered that these totals are not directly comparable. In no event can the final petition follow the declaration by less than two years, and the law now permits a lapse of seven years before the declaration must expire. If the number of declarations and petitions were fairly uniform from year to year, or bore any constant relation to each other, something might be inferred from a comparison of totals for a seven-year period. Since, however, the number of petitions, as well as the number of declarations, increased rapidly from 1908 to 1918, no sound conclusion can be reached without taking such variations into account.

For example, none of the 136,698 declarations of intention filed in 1908 could become the basis for petitions until 1910, and all would be valid until 1915. In 1910 the number of petitions filed was only 56,038, and seven years later it was 123,855. There is no way of knowing how the petitions which actually consummated the declarations filed in 1908 were distributed among the years 1910–14; but it would seem to be sufficiently dependable to take the average of those years, which would be 88,670. Instead, therefore, of comparing the 43,864 petitions of 1908 with the 136,698 declarations of that year, it is proper to compare the 136,698 with the average of 88,670 which gives a ratio of 64.9.

The ratio of about 65 petitions to each 100 declarations is in fact corroborated by other calculations, as

will appear below. Take, for instance, the figures [1] for the period of five years 1908–12, inclusive:

TABLE XIII

NUMBER OF DECLARATIONS FILED EACH YEAR, 1908–12, WITH AVERAGE NUMBER AND RATIO OF PETITIONS CONSUMMATING IN FIVE-YEAR PERIOD ENDING EACH YEAR

YEAR IN WHICH DECLARATIONS WERE FILED	NUMBER OF DECLARATIONS FILED IN EACH YEAR	AVERAGE NUMBER OF PETITIONS IN FIVE-YEAR PERIOD ENDING EACH YEAR	RATIO OF PETITIONS TO DECLARATIONS
1908	136,698	88,670	64.9
1909	143,212	98,926	69.1
1910	167,226	105,799	63.3
1911	186,157	113,137	60.8
1912	169,142	116,183	68.7
Average	160,487	104,543	65.1

Take it another way, remembering that each declaration of intention has a valid lifetime of seven years—five after the two which must elapse before it can be made the basis of a final petition. Assuming that the petitions consummating the declarations of any given year are distributed approximately evenly over the five-year period during which they are valid for that purpose, then one-twenty-fifth of the declarations of 1908–18 covered by Table XIII eventuated in petitions in 1910, two-twenty-fifths in 1911, and so on, reaching five-twenty-fifths in 1914, and falling again to one-twenty-fifth in 1918. The following diagrammatic table, tracing out on this basis the probable distribution of the declarations consummated by the petitions filed from 1908 to 1918, inclusive, shows graphically the

[1] Compiled from *Reports of the Commissioner of Naturalization*, 1908–1918.

weight which should be given to the petitions of each year, in calculating the ratio of declarations to petitions. It fully substantiates the showing of Table XIII, and justifies the assertion that 35 out of every 100 declarants fail to file petitions within the period now fixed by the law.

TABLE XIV

SHOWING NUMBER OF DECLARATIONS FILED IN EACH YEAR DURING THE PERIOD 1908–1912, AND THE NUMBER OF FINAL PETITIONS FOR NATURALIZATION ASSUMED TO HAVE BEEN BASED UPON THOSE DECLARATIONS IN EACH YEAR DURING WHICH, RESPECTIVELY, THE DECLARATIONS WERE VALID

DECLARATIONS		PETITIONS		
NUMBER	DATE	DATE	WT.	ASSUMED NUMBER
		1910	1	55,038
		1911	2	147,288
136,698	1908	1912	3	286,881
143,212	1909	1913	4	380,744
167,226	1910	1914	5	619,275
186,157	1911	1915	4	425,268
169,142	1912	1916	3	324,027
		1917	2	264,640
		1918	1	110,416
TOTAL	802,435		25	2,613,577
AVERAGE	160,487			104,543
PERCENTAGE	160,487 into 104,543			65.1

The chances of error in this calculation lie in the facts (1) that until September, 1913, declarations made under the law as it existed prior to 1906 (the so-called "old-law declarations") were held to be valid, no matter how old their date; (2) that the decision of the United States District Court,[1] applying the seven-year

[1] See p. 109.

limit to all outstanding declarations, undoubtedly hastened many petitions in 1913–14, and (3) that the effects of the war in Europe probably were in some cases to expedite and in others to delay or to prevent the filing of petitions. Undoubtedly some of the petitions of 1910, 1911, 1912, and 1913 are attributable to declarations more than seven years old, and some which in normal conditions would have been filed during the period 1914–18 were not filed.

It may be assumed, however, that these factors to a great extent offset each other, and that in any case their effect is negligible. And if it should appear that a substantial number of "old-law declarations," originating prior to 1908, were accepted up to 1918 by those courts which did not promptly accept the seven-year decision, it would mean only that the percentage of 65.1 is too high; that *more* than 35 declarations out of 100 do not eventuate in petitions.

Right here it must be emphasized that the figure 65.1 applies not to naturalization, but to petitions for naturalization, which is a very different thing indeed. We shall elsewhere learn[1] that 11.5 per cent of all petitions are denied—more than half of the denials being for reasons of a technical character.

The average of 35.1 of "sterile" declarations is that for the United States as a whole; but the figure is by no means constant or uniform. In some states the proportion of petitions to declarations is very much lower than that; in some it is very much higher.

In Indiana, for example, the figures show a fruition in petitions of only 26.4, or a little more than 1 in 4, while in Wisconsin the petitions exceed the declarations by 15.7 per cent. As the above table shows, in four states the proportion of petitions exceeded 80 per cent, while

[1] See p. 231.

14 scaled down from 80 to 70 per cent. Twenty-six states show percentages below the 65.1 of the United States as a whole.

TABLE XV

SHOWING RATIO OF DECLARATIONS OF INTENTION TO PETITIONS FOR NATURALIZATION, BY STATES, BASED ON YEARLY AVERAGE NUMBER OF DECLARATIONS, 1908 TO 1912, AND YEARLY AVERAGE (WEIGHTED)[1]

STATE	RATIO	STATE	RATIO
United States	65.1	Illinois	64.4
Wisconsin	115.7	Colorado	64.3
Arizona	94.2	Nebraska	64.0
North Carolina	93.1	New York	64.0
Mississippi	86.7	North Dakota	63.7
Ohio	78.8	Oregon	63.7
Kentucky	77.5	Kansas	62.9
New Jersey	76.5	Tennessee	62.8
Maine	76.1	Minnesota	62.7
Vermont	75.6	Iowa	60.9
South Carolina	75.3	Texas	59.5
Georgia	74.3	Delaware	58.4
Montana	73.9	Oklahoma	58.3
Alabama	73.0	Louisiana	56.4
Maryland	72.2	West Virginia	55.6
Arkansas	72.0	Massachusetts	53.7
Michigan	71.9	Alaska	53.0
California	71.2	Florida	52.5
Pennsylvania	70.9	Nevada	52.4
Connecticut	69.6	Utah	50.5
Rhode Island	69.6	Washington	50.3
Virginia	69.3	Idaho	48.6
Wyoming	68.1	Missouri	45.2
New Mexico	67.0	South Dakota	44.1
District of Columbia	66.8	Hawaii	39.9
New Hampshire	66.5	Indiana	26.4

[1] The averages are weighted as per the table above, p. 221.

The most important question raised by the results of this calculation is whether it is reasonable to expect

that more than one out of every three declarations of intention should thus fail of fruition—that thirty-five out of every hundred aliens who declare their intention to apply for citizenship should fail to do so. The answer to this question, and the reasons for the failure, are not discoverable in the figures themselves, nor in any documents to be found anywhere. The reasons are human reasons, hidden in the bosoms and written in the personal experience, of men and women who started out after the privileges of American citizenship, and changed their minds.

We have some illuminating data, first-hand, from some twenty-six thousand aliens who did follow up their declarations, and afford in the process a good deal of extraordinarily interesting and enlightening information, the study of which is set forth in the succeeding chapter of this volume.

VIII

LATER STATISTICS—IN WHICH SOME TWENTY-SIX THOUSAND PETITIONERS SPEAK FOR THEMSELVES

When, early in the progress of the Americanization Study, it became apparent that almost no adequate statistical data were available in regard to naturalized citizens, or the really significant aspects of the naturalization process, it was decided to tap the mine of information existing in the original documents lying neglected in the files of the Naturalization Bureau at Washington, and to collate and analyze the significant facts for the latest year of reasonably normal conditions antedating the war. Obviously, that latest year would be that between July 1, 1913, and June 30, 1914.

The consent of the Bureau was readily obtained, with the offer of all possible co-operation. It should be stated once for all, indeed, that at every stage of the Study the Naturalization Bureau, in both its headquarters and field service, has withheld nothing in the way of information and assistance—save only to the extent to which practically all of its official correspondence is characteristically tardy by reason of the short-handed and overworked condition of its clerical force.

It was discovered immediately, however, that the conditions of the files at Washington were such as to prohibit the segregation of the documents for any single year without an inordinate, and in the circumstances impracticable, expenditure of labor and time.

The only recourse, then, was to the local courts, where are kept on file, in more available shape and in chronological order, duplicates of the petitions for naturalization and record of the court's action upon each. But, since this required the examination of the documents in the country-wide offices of the clerks of the courts themselves, it was impracticable to make the inspection complete, as would have been the case had the documents been suitably arranged and available all in one place.

MORE THAN A FIFTH OF ALL PETITIONERS

Twenty-eight courts, with a total of 26,284 naturalization petitions filed during the fiscal year 1913–14, were visited during 1919, with the cordial co-operation of the clerks in charge. And inasmuch as this total number of petitions examined constituted more than one in five (21.2 per cent) of the whole number of petitions for naturalization (123,855) filed in that fiscal year in the whole United States, it would seem to represent a large enough number and a sufficient variety of local, racial, and other conditions to warrant a fair degree of confidence in the representative character of the results.

FROM TWENTY-EIGHT REPRESENTATIVE COURTS

The courts studied included two Federal and three state courts in New York City, having the great bulk of naturalization business; a number of courts in industrial districts, and some smaller ones taking in the business from outlying rural regions. Following is a list of the courts from which the information was derived:

State court,	Auburn, Maine
State court,	Worcester, Massachusetts
State court,	Bridgeport, Connecticut

State court,	Middletown, Connecticut
State court,	Norwich, Connecticut
Federal courts,	New York City
State courts,	New York City
State court,	White Plains, New York
State court,	Mineola, Long Island, New York
State court,	Troy, New York
State court	Ithaca, New York
State court,	Rochester, New York
State court,	Elmira, New York
State court,	Paterson, New Jersey
State court,	New Brunswick, New Jersey
State court,	Easton, Pennsylvania
Federal court,	Cleveland, Ohio
State court,	Cleveland, Ohio
State court,	Akron, Ohio
Federal court,	Cincinnati, Ohio
State court,	Galesburg, Illinois
State court,	Iowa City, Iowa
State court,	Portland, Oregon
Federal court,	Seattle, Washington
State court,	Seattle, Washington

And it is apparent that the courts from which the data were derived are widely scattered through the East, Middle West, and Far West, and are of a varied character as regards nature of racial and other characteristics which might affect the human factors in the matter. It is to be regretted that there are none from the South and Southwest; but there seems no reason to suppose that they would show materially different results.

IN A REASONABLY NORMAL YEAR

Doubtless any particular year selected for the study would present certain special conditions calling for discount of the results. This is true of the year 1913–14. That year chanced to mark the end of the validity of

the "old-law declarations";—that is to say that in that year the seven-year limit upon the life of a declaration of intention to become a citizen, established for the first time by the Naturalization Act of 1906, was declared by the United States Court, 1914,[1] to apply to declarations made prior to the enactment of that statute. Undoubtedly anticipation of this tended on the whole to increase, perhaps materially, the number of petitions consummating those old declarations. On the other hand, there were doubtless many declarants of long ago who were discouraged by the decision from filing petitions at all. We shall observe later the extent to which that decision has been a factor in the rejection of the petitions of a large number of persons otherwise presumably eligible—excluded for that reason alone.

Obviously it was desirable to select a year as recent as possible and at the same time to avoid any period affected by the complications introduced by the existence of the war in Europe. It is felt that the year 1913–14 is sufficiently typical for all practical purposes, and that the applicants for citizenship analyzed herein are sufficiently representative generally of the foreign born who seek to join us; whatever may be said of the great number who were swept into citizenship helter-skelter during and since the war by naturalization of soldiers and sailors on the sole ground of military service.[2]

THE RACIAL GROUPS ARE TYPICAL

Some of the important conclusions supported by these statistics naturally raise the question whether the petitions studied are, in respect of country of origin, really typical of the whole foreign-born population of the country. This question seems to be disposed of by a

[1] See chap. v, p. 108.

[2] See chap. ix, p. 255, *et seq.*

TABLE XVI

COMPARISON BY RACES OF (1) NATURALIZATION PETITIONERS STUDIED, (2) UNNATURALIZED MALES TWENTY-ONE YEARS OR OVER IN NINE CITIES[3] WHERE PETITIONS WERE FILED, AND IN THE COUNTRY AS A WHOLE, IN 1910 [1]

COUNTRY OF BIRTH	PETITIONERS STUDIED 1913–14		UNNATURALIZED[2] FOREIGN-BORN WHITE MALES TWENTY-ONE YEARS OF AGE AND OVER IN NINE CITIES, IN 1910		UNNATURALIZED FOREIGN-BORN WHITE MALES TWENTY-ONE YEARS OF AGE AND OVER IN THE UNITED STATES IN 1910	
	Number	Per Cent	Number	Per Cent	Number	Per Cent
All countries	26,284	100.0	437,517	100.0	2,837,307	100.0
Russia	7,864	29.9	107,393	24.5	481,532	17.0
Austria	3,875	14.7	59,252	13.5	407,977	14.4
Italy	3,591	13.7	98,595	22.5	523,964	18.5
Hungary	2,443	9.3	31,194	7.1	200,274	7.1
Germany	2,305	8.8	35,425	8.1	219,133	7.7
Ireland	1,773	6.7	16,453	3.8	116,613	4.1
England	831	3.2	14,807	3.4	112,317	4.0
Sweden	616	2.3	8,675	2.0	92,289	3.3
Rumania	569	2.2	5,778	1.3	17,498	0.6
Norway	389	1.5	4,084	0.9	66,802	2.4
Canada	385	1.5	9,229	2.1	176,868	6.2
Scotland	288	1.1	5,299	1.2	38,940	1.4
Denmark	200	0.8	1,881	0.4	27,045	1.0
Switzerland	197	0.8	4,039	0.9	16,942	0.6
Finland	144	0.6	2,395	0.5	43,737	1.5
Turkey in Asia	142	0.5	1,883	0.4	22,776	0.8
Holland	139	0.5	930	0.2	18,116	0.6
Turkey in Europe	92	0.3	1,650	0.4	19,546	0.7
Greece	90	0.3	5,393	1.2	62,758	2.2
France	86	0.3	4,116	0.9	21,457	0.8
Wales	32	0.1	294	0.1	6,424	0.2
Spain	23	0.1	932	0.2	10,037	0.4
Portugal	8	.....	92	.....	19,557	0.7
No information	23	.....	.....	.....	.....	.....
Other	179	0.8	17,728	4.1	114,705	4.0

[1] *United States Census*, 1910, vol. 1, chap. xi.

[2] Includes aliens and those holding first papers.

[3] Cleveland, New York (Boroughs of Manhattan, Bronx, and Queens); Bridgeport, Connecticut; Cincinnati; Paterson, New Jersey; Portland, Oregon; Rochester, New York; Seattle, Washington; Worcester, Massachusetts.

compilation showing the racial distribution of the petitioners studied, compared with the racial distribution of *all* unnaturalized foreign-born white aliens 21 years of age or older in the country as a whole, and in the nine large cities covered by this investigation.

Considerable variations will be observed between the racial distribution of petitioners studied and that of the unnaturalized but potentially naturalizable males in the whole country in 1910. For instance, while 18.5 per cent of the unnaturalized persons in the United States were born in Italy, only 13.7 per cent of the petitioners studied were Italians; on the other hand, while 29.9 per cent of the petitioners studied were from Russia, only 17 per cent of the unnaturalized males in the United States in 1910 were Russians.

These discrepancies do not prove, however, that even in such cases the groups of petitioners studied are not representative of the foreign-born population, because racial distribution varies considerably from state to state. Fortunately, moreover, it is possible to compile from the census figures to show by country of origin the distribution of unnaturalized white males in the cities covered by the study, and these figures, also included in the last column of the table, show conclusively that the racial distribution in those cities is fairly typical. The percentages do not exactly agree, nor is that to be expected. In the first place, there is a difference of three years between the times represented respectively in the two sets of figures—years during which there was a heavy immigration. The figures given for the unnaturalized are not complete, inasmuch as for those cities the citizenship status of 9.8 per cent of the foreign-born males 21 years of age and over was not reported by the 1910 census. Furthermore, the petitions studied were not all from these nine cities, although nearly nine out of ten (86.8 per cent) of them

were. On the whole, the nativity distribution in those nine cities of the petitioners studied coincides remarkably with that of the unnaturalized but naturalizable males.

RELATIVE "CIVIC AND POLITICAL INTEREST"

In Table X, page 211, the relative numbers and percentages are arranged in the *order of magnitude*, and this arrangement is illuminating in its display of what the Immigration Commission and the writers who have taken their cue therefrom have interpreted as "civic and political interest" exhibited in relative desire for citizenship. With the exception of Italy the races from the sources of largest recent immigration show a higher proportion naturalized than the proportion they represented in the population. It can fairly be said that the desire to become citizens is as evident among these immigrants of the new races as among those of the earlier, entirely leaving out of consideration the length of residence which operates in favor of the older immigrants.

HOW DID THESE PETITIONERS FARE?

How did these applicants for citizenship fare? However much they may have desired citizenship, these of the "new immigration" and the "old"—did they get it? Did they pass the examinations? And as regards the reasons for denial of those who were rejected, how did the "recent" races account for themselves in respect of those matters which really go to the questions of moral and intellectual fitness?

Well, to begin with, the percentage of all denials (3,033) among these more than 26,000 petitioners was 11.5—almost exactly that (11.2) of the whole United States during the entire period of eleven years, 1908–

18, as shown by the reports of the Commissioner of Naturalization. Here appears a compilation analyzing *all* the denials during the period 1908–18.

TABLE XVII

COMPARISON OF CAUSES OF DENIAL FOR THE YEARS 1908–18 AND 1913–19 FROM COMMISSIONER OF NATURALIZATION REPORTS, AND DENIALS OF 26,284 PETITIONERS STUDIED

CAUSES	DENIALS					
	Naturalization Reports				Cases Studied 1913–14	
	1908–18		1913–14			
	Number	Per Cent	Number	Per Cent	Number	Per Cent
Want of prosecution	33,493	31.2	3,856	29.4	689	22.7
Incompetent witnesses	28,262	26.3	3,982	30.2	422	13.9
Declaration invalid	9,187	8.5	1,148	8.7	1,296	42.7
Ignorance	11,109	10.3	1,147	8.7	220	7.2
Miscellaneous	6,098	5.7	553	4.2	147	4.8
Immoral character	4,269	4.0	588	4.5	59	1.9
Insufficient residence	3,625	3.3	389	3.0	68	2.2
Petitioner's motion	2,824	2.6	381	2.9	51	1.7
No jurisdiction	2,934	2.7	291	2.2	12	0.4
Deceased	1,123	1.0	174	1.3	11	0.4
Unable to produce witnesses or deposition	1,090	1.0	196	1.5	12	0.4
Already a citizen	1,200	1.1	150	1.1	9	0.3
No certificate of arrival	1,197	1.1	179	1.4	14	0.5
Premature petition	979	0.9	96	0.7	17	0.2
Section 2169 (not a white person)	84	0.1	3	.....	.....	.....
No information	.....	.....	.....	.....	16	0.5
Total	107,474	100.0	13,133	100.0	3,033	100.0
Certificates granted	848,777	.....	105,439	.....	.....	.....
Cases disposed of	956,251	.....	118,572	.....	26,284	.....
Per cent denied	.....	11.2	.....	11.1	.....	11.5

LATER STATISTICS

A study of the figures covering the reasons for denial of the 3,033 among the petitions of 1913–14 here analyzed illuminated special aspects of this matter, showing, as it does, how large a proportion of the denials are for reasons of a purely technical character, or because the petitioners abandoned their pursuit of citizenship after filing the final petition.

The following table lists the races represented by forty or more petitions, *in the order of percentage of*

TABLE XVIII

RACIAL DISTRIBUTION OF 26,284 PETITIONERS DENIED, 1913–14, AND THE PER CENT OF THE DENIALS FOR THE SIX PRINCIPAL CAUSES

COUNTRY OF BIRTH	NUMBER OF PETITIONS	DENIALS		CAUSES OF DENIAL—PER CENT					
		Number	Per Cent	Want of Prosecution	Incompetent Witnesses	Ignorance	Declaration Invalid	Immoral Character	"Old-Law" Declaration[1]
All countries	26,284	3,033	11.5	22.7	13.9	5.2	7.2	1.9	37.5
Greece	90	27	30.0	48.1	11.1	3.7	.....	.....	3.7
France	86	19	22.1	15.7	26.3	.....	.....	.....	42.1
Italy	3,591	646	18.0	28.1	11.1	2.9	14.2	1.7	34.2
Turkey in Europe	92	15	16.3	26.6	7.6	26.6	.....	7.6	20.9
Holland	139	21	15.1	28.5	33.3	.....	.....	.....	14.0
Scotland	288	42	14.6	21.4	11.9	9.5	2.4	.....	31.0
Denmark	200	29	14.5	17.2	27.6	3.5	.....	6.9	31.0
England	831	120	14.4	30.0	19.2	4.2	1.7	2.5	27.5
Sweden	616	80	13.0	13.7	13.7	11.3	3.8	5.0	30.0
Germany	2,305	296	12.8	17.2	14.5	5.4	4.7	2.4	47.3
Switzerland	197	25	12.7	24.0	20.0	4.0	8.0	.....	36.0
Turkey in Asia	142	18	12.7	44.4	11.1	16.7	5.6	.....	16.7
Norway	389	48	12.3	25.0	27.1	14.6	8.3	.....	4.2
Belgium	41	5	12.2	40.0	20.0	.....	20.0	.....	.....
Canada	385	43	11.2	30.2	14.0	9.3	.....	4.6	20.9
Hungary	2,443	249	10.2	32.2	12.5	4.8	7.6	3.2	24.9
Finland	144	14	9.7	42.8	14.3	14.3	.....	.....	.....
Rumania	569	54	9.5	7.4	11.1	5.6	7.4	3.7	63.0
Russia	7,864	744	9.5	15.1	15.7	5.5	6.2	1.7	46.2
Ireland	1,773	166	9.4	27.1	11.4	3.0	1.8	0.6	46.3
Austria	3,875	347	9.0	21.6	10.4	5.5	7.2	1.4	44.8
Other	201	27	.....	.....	.....	.....	.....	.....	.....
No information	23	.....	.....	.....	.....	.....	.....	.....	.....

[1] Denied because declaration of intention was more than seven years old.

denials, and shows the percentages attributable to the six principal reasons, respectively: "want of prosecution," "incompetent witnesses," "declaration invalid," "ignorance," "immoral character," and "old-law declaration—held to be invalid."

In this table there are 14 countries listed whose per cent of denials exceeds that for all countries. Of these only four supply the "new" immigration. And of the seven showing a lower than 11.5 per cent denials, five constitute the "new" immigration. This would point to greater success on the part of the new races in attaining their naturalization papers. The qualifying fact here, as elsewhere, is that more than twice as many petitioners belong to the "new" races as to the "old."

The two causes of denial showing the largest per cents for the country as a whole and for most countries are "want of prosecution" and the invalidity of their "old-law" declaration. That so large a proportion of immigrants have taken the trouble to take almost the last steps toward citizenship and then fail by default is symptomatic of waste somewhere along the line. This condition seems to prevail among both the "old" and "new" peoples.

AS REGARDS "IMMORAL CHARACTER"

For some of the less mechanical causes of denial, let us segregate and arrange the countries in order of percentages. The following table shows denials for "immoral character."

The average percentage of denials for the whole United States for the period 1908–18 on the ground of "immoral character" was 4.0 per cent. With the exception of Turkey in Europe, not one of the "newer" races came up to this average in the year 1913–14, so far as may be judged by this analysis of the court

TABLE XIX

PER CENT OF DENIALS DUE TO "IMMORAL CHARACTER," BY RACE

Country of Birth	Denials Per Cent
Total cases	1.9
Turkey in Europe	7.6
Denmark	6.9
Sweden	5.0
Canada	4.6
Rumania	3.7
Hungary	3.2
England	2.5
Germany	2.4
Russia	1.7
Italy	1.7
Austria	1.4
Ireland	0.6

records of more than one in five of the petitions passed upon in that year. Austria, Hungary, Italy, Rumania, all showed a record materially better, and the figures generally show that cause to be negligible, anyway.

THE SHOWING AS TO "IGNORANCE"

In considering the statistics of denials on the ground of "ignorance," it is to be remembered that the examinations which disclose this "ignorance" do not go as a rule to the subject of illiteracy or general intelligence, but deal in the majority of cases with the understanding of the petitioner as to the form of government, and sometimes decidedly minute details of the history, of the United States. The average percentage of denials on the ground of "ignorance" in the whole United States during the eleven years 1908–18 was 10.3. The records of the petitions of every one of the "recent" races, except Italian, for the year 1913–14—if one may judge

by this study of more than one-fifth of them—was far better than that average, though generally higher than that of the old races.

TABLE XX

PER CENT OF DENIALS DUE TO "IGNORANCE," BY RACE

Country of Birth	Denials Per Cent
Total cases	7.2
Italy	14.2
Norway	8.3
Switzerland	8.0
Hungary	7.6
Rumania	7.4
Austria	7.2
Russia	6.2
Turkey in Asia	5.6
Germany	4.7
Sweden	3.8
Scotland	2.4
Ireland	1.8
England	1.7

TIME-INTERVALS IN NATURALIZATION

Generally speaking, judging by the 26,284 petitions examined, each of which must show the date of arrival and declaration of intention, the immigrant is in this country in the average case anywhere from 5.4 to 12.7 years before he files his declaration of intention to seek citizenship. (See Table XXI.)

The evidence on this point was strikingly uniform in all the courts save one. The lowest average shown was 5.4 years in Cincinnati; the highest average but two was 8.6 in the State Superior Court at Worcester, Massachusetts. The extreme exceptions were 9.4 years in the Superior Court for Middlesex County, at Middletown, Connecticut, and 12.7 years in the Androscoggin

TABLE XXI

THE AVERAGE TIME ELAPSING BETWEEN ARRIVAL AND DECLARATION OF INTENTION; BETWEEN DECLARATION AND PETITION, AND BETWEEN PETITION AND NATURALIZATION AS SHOWN BY 26,284 CERTIFICATES, 1913–14

COURTS	AVERAGE INTERVAL BETWEEN ARRIVAL AND DECLARATION (Years)	AVERAGE INTERVAL BETWEEN DECLARATION AND PETITION (Years)	AVERAGE INTERVAL BETWEEN PETITION AND CERTIFICATE (Months)
New York Co. Supm. Ct.	6.7	4.7	5.1
U. S. Dist. Ct., Southern Dist. New York, N. Y. C.	7.2	4.3	3.9
U. S. Dist. Ct., Eastern Dist. New York, Brooklyn	7.1	5.2	4.1
Bronx Co. Supm. Ct., N. Y. C.	7.7	3.9	5.0
Queens Co. Supm. Ct., Jamaica, L. I.	7.4	6.5	4.6
Westchester Co. Supm. Ct., White Plains, N. Y.	6.9	5.2	5.8
Nassau Co. Supm. Ct., Mineola, L. I.	7.0	4.9	4.7
Passaic Co. Ct. Com. Pls., Paterson, N. J.	6.3	5.2	4.1
Fairfield Co. Supr. Ct., Bridgeport, Conn.	7.7	4.8	5.3
Knox Co. Circt. Ct., Galesburg, Ill.	7.7	4.6	4.8
Johnson Co. Dist. Ct., Iowa City, Iowa.	6.1	3.5	4.6
Androscoggin Co. Supm. Jud. Ct., Auburn, Me	12.7	3.0	4.2
Tompkins Co. Supm. Ct., Ithaca, N. Y.	8.0	3.5	6.4
Middlesex Co. Ct. Com Pls., New Brunswick, N. J	6.6	4.6	5.2
U. S. Dist. Ct. Northern Dist., Cleveland, Ohio	5.4	5.0	4.5
Cuyahoga Co. Ct. Com. Pls., Cleveland, Ohio	6.7	5.0	4.5
Multnomah Co. Circt. Ct., Portland, Ore.	7.2	11.1	5.1
Monroe Co. Supm. Ct., Rochester, N. Y.	6.3	5.5	4.6
U. S. Dist. Ct. Western Dist. Washington, Seattle	6.1	7.1	4.8
King Co. Supm. Ct., Seattle, Wash.	6.0	8.8	11.1
Chemung Co. Supm. Ct., Elmira, N. Y.	7.0	4.8	12.7
Summit Co. Ct. Com. Pls., Akron, Ohio	6.2	4.2	5.7
Northampton Co. Ct. Com. Pls., Easton, Pa.	7.5	4.2	5.5
Worcester Co. Supr. Ct., Worcester, Mass.	8.6	4.1	5.4
Middlesex Co. Supr. Ct., Middletown, Conn.	9.4	3.7	5.3
Rensselaer Co. Supm. Ct., Troy, N. Y.	6.2	4.1	7.7
U. S. Dist. Ct. Southern Dist. O., Cincinnati	5.7	5.4	5.1
New London Co. Supr. Ct., Norwich, Conn.	8.5	4.2	6.8
Average	6.8	5.1	4.9

Supreme Judicial Court at Auburn, Maine. The latter court in naturalization matters deals largely with French-Canadians; of all the 385 Canadian petitioners falling under this analysis, this one court passed upon 61.5 per cent.

Having filed his declaration of intention after an average residence in this country shown in all courts as 6.8 years—nearly two years more than the five years' minimum residence required for the *completion* of citizenship—our average immigrant *waits more than five years longer* before he files his final petition for naturalization—although under the law he need have waited only two. The range, however, was wide, between an average of 3.0 years in the Supreme Court of Androscoggin County, Auburn, Maine, and 11.1 years in the Circuit Court at Portland, Oregon. The whole average shown in all the courts studied was 5.1 years. These are very surprising figures for those who have been complaining that we have hurried aliens into citizenship.

Once the applicant has his petition filed, the process becomes more expeditious. The figures collated for the year 1913–14 show an average interval between petition and certificate of naturalization of 4.9 months; the range is between 3.9 months in the United States District Court in Manhattan, and 12.7 months in the State Supreme Court at Elmira, New York. From the point of view of delay, three months must always be subtracted, since the law requires, in any event, an interval of at least ninety days after the petition is filed before it can be considered by the court.

HOW DO THE RACIAL GROUPS COMPARE?

What light do the petitions throw upon the question of the relative "civic and political interest" of the various

racial groups, as shown by the interval that elapses between their attainment of the age of 21 years, or if they come here after they are 21, between their arrival and their filing of the final petition?

TABLE XXII

AVERAGE INTERVAL BEFORE FILING PETITION, AFTER ATTAINMENT OF TWENTY-ONE YEARS, FOR THOSE ARRIVING AT AGES OF ONE TO FOURTEEN, BY RACES

COUNTRY OF BIRTH	NUMBER IN AGE GROUP 1–14	AVERAGE INTERVAL (Years)
All countries	2,900	6.2
France	19	12.9
Norway	13	12.5
Switzerland	7	12.4
Sweden	31	12.4
Scotland	13	11.8
England	77	11.6
Ireland	77	10.8
Germany	280	10.3
Canada	88	9.8
Denmark	13	9.5
Holland	17	9.5
Hungary	192	5.8
Greece	12	5.5
Finland	6	5.3
Russia	873	5.0
Italy	651	4.9
Austria	389	4.5
Turkey in Asia	10	4.0
Rumania	89	3.8
Turkey in Europe	8	3.6

We have three groups of statistics on this point: those petitioners arriving at the ages of 1 to 14, those at 15 to 20 years, and those 21 years and over. In the following

table the countries of birth are arranged in the order of the average interval for those arriving at the ages of 1 to 14 years. The complete table will be found in the Appendix.

TABLE XXIII

AVERAGE INTERVAL BEFORE FILING PETITION, AFTER ARRIVAL, AT AGES OF FIFTEEN TO TWENTY, BY RACES

COUNTRY OF BIRTH	NUMBER IN AGE GROUP 15–20	AVERAGE INTERVAL (Years)
All countries	9,512	11.0[1]
France	10	17.7
Canada	99	17.3
Switzerland	50	15.6
Germany	600	14.1
England	216	13.6
Sweden	269	12.7
Scotland	57	12.7
Denmark	65	12.2
Holland	32	12.2
Finland	54	11.7
Ireland	609	11.5
Norway	148	11.3
Italy	1,198	10.8
Hungary	960	10.8
Austria	1,658	10.6
Rumania	202	10.2
Russia	3,055	9.9
Greece	47	9.7
Turkey in Asia	69	9.0
Turkey in Europe	42	7.9

[1] This average includes the figures for races whose numbers are too small to justify generalization.

The striking thing in these tables is the fact that almost without exception the countries showing the longest intervals are those representing the old immigration.

TABLE XXIV

AVERAGE INTERVAL BEFORE FILING PETITION, AFTER ARRIVAL, AT AGES TWENTY-ONE OR OVER, BY RACES

COUNTRY OF BIRTH	NUMBER IN AGE GROUP 21 YEARS AND OVER	AVERAGE INTERVAL (Years)
All countries	13,849	10.6[1]
Canada	198	16.4
Sweden	316	13.1
Switzerland	140	12.2
France	57	11.9
Germany	1,425	11.9
England	538	11.7
Italy	1,742	11.4
Norway	228	10.8
Scotland	218	10.6
Finland	84	10.5
Austria	1,828	10.5
Denmark	122	10.2
Holland	90	10.1
Hungary	1,291	9.9
Rumania	278	9.8
Russia	3,936	9.6
Ireland	1,087	9.6
Greece	31	8.6
Turkey in Asia	63	8.5
Turkey in Europe	42	8.1

[1] This average includes the figures for races whose numbers are too small to justify generalization.

THEY ARE YOUNG PEOPLE

They were young men. More than 60 per cent of them were between the ages of 18 and 30 years. Of the 26,284 applicants for citizenship whose petitions were examined, 16,586—over three-fifths—came to this country between the ages of 18 and 30. The preponderance is striking:

TABLE XXV

NUMBER AND PER CENT OF PETITIONERS FOR THREE AGE GROUPS[1]

AGE AT ARRIVAL	NUMBER	PER CENT
1–17	6,589	25.1
18–30	16,586	63.1
31 and over	3,093	11.5
No data	16	....
Total	26,284	99.8

[1] The full table showing distribution of ages at arrival from infancy to fifty years or over, is given in the Appendix, Table 57.

RELATIVE AGE AND "POLITICAL INTEREST"

It is interesting to note, in this connection, the relation between the age at which the alien arrives in this country and the length of time that elapses before he files his final petition for citizenship. The following diagram exhibits this:

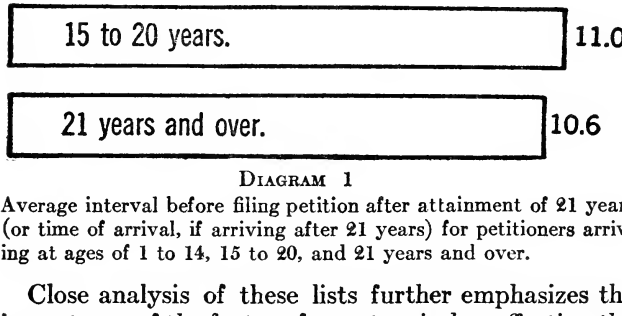

DIAGRAM 1

Average interval before filing petition after attainment of 21 years (or time of arrival, if arriving after 21 years) for petitioners arriving at ages of 1 to 14, 15 to 20, and 21 years and over.

Close analysis of these lists further emphasizes the importance of the factor of *age at arrival* as affecting the lapse of time after the attainment of lawful age before filing the final petition for citizenship. It appears, as might well be expected, that those who come in childhood are more prompt than those who arrive between

15 and 20; but even those coming in childhood appear, on the average, to wait until after they are 27. The averages indicate, almost without exception, that those coming at ages over 20 waited more than 10 years before filing their petitions. Few come after they are 40 and then seek citizenship. The petitions show that on the average those arriving at 1 to 14 applied 6.2 years after 21. Those arriving at 21 years or over applied 10.6 years after arrival.

Those arriving between 15 and 20 applied 11 years after arrival, but it is fallacious to compare this interval with those in the case of the younger or older immigrants, because the five years' required residence might mean application at 21 years of age by an immigrant who came at 15 or 16, or at 25 years by one who came at 20; while one who, coming at 15, waited the full average of 11 years would apply at 26, apparently more promptly than one who, coming in infancy, did not apply until he was 27 or over. The questions suggested by the discrepancy here apparent are many, but the data available furnish no definite answer to them. Perhaps fuller statistics might substantially modify the apparent discrepancies.

THE REAL RACIAL DISTINCTION

These men, the cream of our immigration—regardless of any fanciful distinction of race "older" or "newer" —came in the flower of their young manhood to try hazard of new fortunes in what they rightly believed to be the land of promise and opportunity; lived here from five to twelve years before they registered in normal declaration their intention to become citizens; lived here upward of five years more before filing their final petition for citizenship, and nearly nine out of ten of them passed their examinations and were admitted.

There is visible in these statistics a distinction of race—a very interesting and inspiring distinction, but it is not one of the "older" or "newer" races. It has little to do with any supposititious difference of racial quality or character. Indeed, it redounds on the whole to the credit of the more recent immigration, and, so far as it goes, would indicate, if anything, a greater potential fitness for American citizenship. In Diagram 2, which is based on Table XXIV, the bars which are black represent countries which have entirely a subject people, or in which a proportion of the population is subject. In the latter case it is the subject peoples who come to this country in larger proportions than the sovereign peoples. This is only one of the instances which illustrate an interesting conclusion. Certainly to a discerning eye this fact stands forth:

Those from countries where, at the time of their migration, there was either autocratic government or political discontent, or inferior economic opportunity, head the list of those who seek, and upon examination prove their title to, fellow-membership with us.

Those from countries where government was relatively democratic, where individual liberty prevailed, where political, social, and economic conditions were conducive to contentment, were satisfied to keep the citizenship of their fatherlands.

Why should it require exhaustive investigation to demonstrate so obvious, so inevitable an operation of human psychology? What else was to have been expected?

RACE AND RELATIVE AGE AT ARRIVAL

The racial distribution of these petitioners, with reference to age at arrival, is interesting and to some extent significant. Table XXVI, including only those

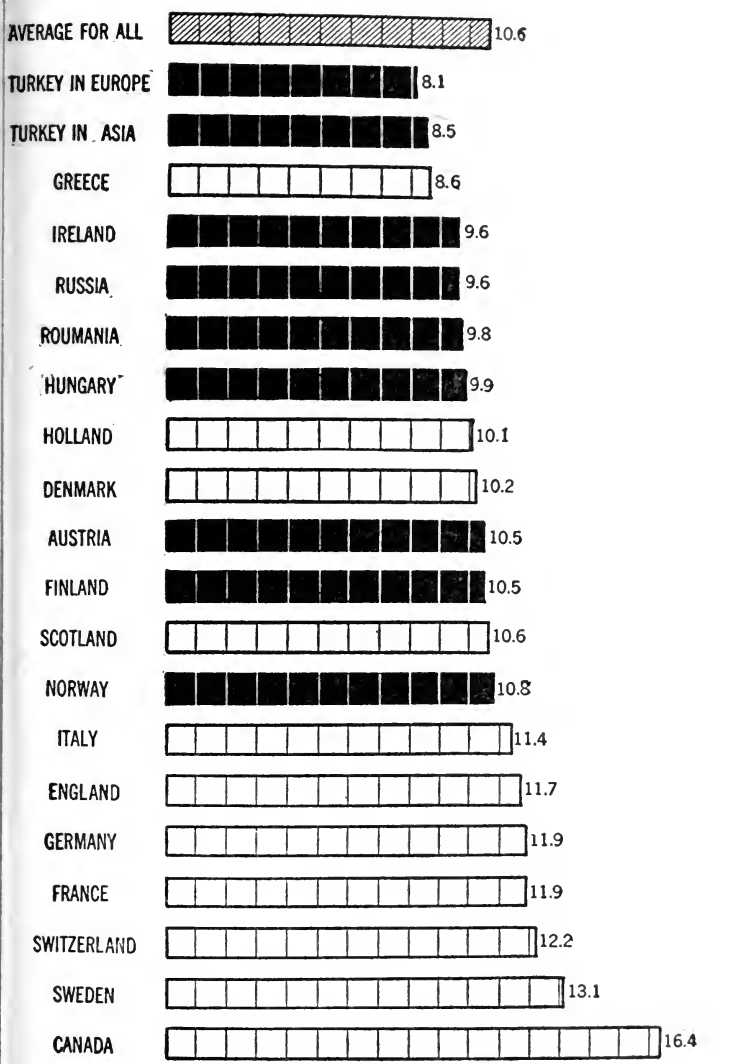

DIAGRAM 2

Average interval before filing petition after arrival at ages 21 or over by races. The bars which are in black represent countries from which the subject people constituted almost entirely the immigration to this country.

races represented by at least 50 petitions, is arranged in the order of percentages of those arriving after attaining the age of 21 years. It throws sidelights upon the variations of the age at which the individuals of various races came to this country:

TABLE XXVI

RACIAL DISTRIBUTION OF PETITIONERS, SHOWING PERCENTAGES FOR THE AGE PERIODS "OVER TWENTY-ONE," "FIFTEEN TO TWENTY," AND "ONE TO FOURTEEN," IN THE ORDER OF THE FIRST-MENTIONED AGE GROUP

COUNTRY OF BIRTH	WHOLE NUMBER OF PETITIONERS	NUMBER AND PERCENTAGE OF THOSE ARRIVING AT AGES					
		21 and Over		15 to 20		1 to 14	
		Number	Per Cent	Number	Per Cent	Number	Per Cent
Scotland	288	218	75.7	57	19.8	13	4.5
Switzerland	197	140	71.7	50	25.4	7	3.5
France	86	57	66.3	10	11.6	19	22.1
England	831	538	64.7	216	26.0	77	9.3
Holland	139	90	64.7	32	23.0	17	12.2
Germany	2,305	1,425	61.8	600	26.0	280	12.1
Ireland	1,773	1,087	61.3	609	34.3	77	4.3
Denmark	200	122	61.0	65	32.5	13	6.5
Norway	389	228	58.6	148	38.0	13	3.3
Finland	144	84	58.3	54	37.5	6	4.1
Hungary	2,443	1,291	52.8	960	39.3	192	7.9
Canada	385	198	51.4	99	25.7	88	22.9
Sweden	616	316	51.3	269	43.7	31	5.0
Russia	7,864	3,936	50.1	3,055	38.8	873	11.1
Rumania	569	278	48.9	202	35.5	89	15.6
Italy	3,591	1,742	48.5	1,198	33.4	651	18.1
Austria	3,875	1,828	47.2	1,658	42.8	389	10.0
Turkey in Europe	92	42	45.7	42	45.7	8	8.7
Turkey in Asia	142	63	44.4	69	48.6	10	7.0
Greece	90	31	34.4	47	52.2	12	13.3

Inferences or generalizations from this table in connection with the age statistics given heretofore would

be perilous, since we have not tabulated the data which would show, with regard to any particular racial group, how many of those between 15 and 20 years of age came at 18 or 19; or how many of those over 21 came after they were 25 or before they were 30. So far as it goes, however, it would appear to indicate that those of the so-called "older" immigration left their homelands at a later age, while a larger proportion of those of the "newer" came in younger manhood. The larger percentages in the column "over 21" are credited to the "older"; the larger in the second column, "15 to 20," to the "newer."

AT THE BEGINNING OF MARRIED LIFE

More than two-thirds (68.5 per cent) of the petitioners were married at the time of their petition for naturalization. One may hazard the guess that the majority were either unmarried or newly married when they came to this country, because, while 89.9 per cent of the 18,017 married petitioners reported wives of foreign birth, 10,563 (73.5 per cent) of them had children exclusively native-born. Only one in ten had foreign-born children only, and only 16.5 per cent had both native and foreign-born children. And 14,371 (79.8 per cent) of the married petitioners had one or more children under 21 years of age.[1]

AS FOR "STABILITY OF RESIDENCE"

The question of what might be called the "residential stability" of the immigrant in this country has been the subject of much assertion and little substantial in-

[1] The full tables regarding marital condition and number and nativity of children will be found (Tables LVI and LVII, respectively) in the Appendix.

formation. The general tenor of the assertion and the vague impression of the average person are to the effect that the immigrant is more or less of a wanderer, shifting from place to place, and for that reason failing to establish anything resembling permanent residence or to relate himself to the community as a neighbor. Very little statistical data on this point is available, and it is unsafe to generalize. There is, however, a somewhat startling disclosure in the 1915 census of the state of Massachusetts, showing that in the class of otherwise "justified" voters disqualified solely by reason of not having resided one year in the state or six months in the city or town, there were 21,226 native and 3,845 foreign born; in other words, that 3.6 per cent of the native-born voters were disqualified because they were moving about; while only 1.9 per cent, or just about half the proportion, of the foreign-born were disqualified for that reason.

The analysis of petitions by the Americanization Study sheds a little further light on this subject, by segregating the figures in each court showing petitions which were filed by aliens who had filed their declaration in another state. Of the total of 26,284, there were 1,859 of these, or 7.1 per cent. Undoubtedly this moving about, in search of employment or for other reasons, is a considerable factor in the delay between arrival and declaration and between declaration and petition. Naturally, the figures would tend to be high on the Pacific coast, to which immigrants travel by rather long stages of time. The court in Portland, Oregon, showed 234 out of 714 petitioners—almost a third—who had filed their declaration in other states. This court shows also the longest average interval between declaration and petition. The courts in Seattle also show high figures in this regard. The same tends to be true of rapidly growing industrial centers, such as Cleve-

land, Bridgeport, Paterson, New Brunswick, New Jersey.

TABLE XXVII

PETITIONERS WHOSE DECLARATIONS WERE MADE IN A STATE OTHER THAN THE ONE IN WHICH THE COURT IS LOCATED

COURT	PETITIONERS WHO DECLARED IN OTHER STATES	
	Number	Per Cent
Norwich, Conn.	52	43.7
Portland, Ore.	234	32.8
Seattle, Wash. (state court)	42	29.4
Bridgeport, Conn.	96	23.4
New Brunswick, N. J.	84	21.6
Cleveland, Ohio (U. S. court)	158	13.4
Paterson, N. J.	76	10.2
Seattle, Wash. (U. S. court)	69	9.8
Middletown, Conn.	7	9.5
Cincinnati, Ohio	34	9.4
Cleveland, Ohio (state court)	152	8.9
Easton, Pa.	10	8.7
Ithaca, N. Y.	2	8.7
Akron, Ohio	16	8.0
Iowa City, Iowa	1	7.7
Rochester, N. Y.	57	7.0
Jamaica, L. I.	39	6.5
Elmira, N. Y.	1	5.3
Mineola, L. I.	7	5.2
New York City (U. S. court)	121	5.0
White Plains, N. Y.	28	4.3
Worcester, Mass.	27	4.3
New York City (state court)	452	4.1
Bronx, N. Y. C. (state court)	47	3.5
Brooklyn, N. Y. C. (U. S. court)	47	3.0
Total	1,859	7.1

That upward of 13 out of 14—nearly 93 per cent—of alien petitioners for American citizenship, in a total of

more than 26,000, should have been able to file their final petitions in the same states in which, on an average of more than five years before, they had declared their intention to do so, certainly attests a degree of "stability of residence" comparing favorably with that of other, native-born residents of the country. And it would seem also to justify the inference that those who become naturalized have generally become well assimilated into the life of the communities where they live.

INTELLECTUAL EQUIPMENT AND OCCUPATION

As for the intellectual equipment and the general usefulness of the aspirants for citizenship represented in the petitions studied, one may infer something from the occupational range shown in an analysis of the petitions for 1913–14 in seven cities,[1] representing a wide variety of locality. This analysis showed, for each of the 17 kinds of occupations listed, the ratio between the number of naturalization petitions filed by persons in those occupations in those cities in 1913–14, and the foreign-born white males in those occupations in those cities as shown by the census of 1910. Perhaps the most striking fact emerging from this analysis, illuminating to those who have supposed that the naturalization process swept into citizenship the dregs of immigration, is that the smallest percentage is shown in the class of common labor; the highest in the grade of executives, and the preponderance throughout attaching to trades requiring a degree of dexterity and general intelligence and information, if not technical training. It is unsafe, however, to infer too much from these per-

[1] New York (boroughs of Manhattan, Bronx and Queens), Cleveland, Cincinnati, Bridgeport, Paterson, Portland (Oregon), and Rochester (New York).

centages, because of the relatively small numbers represented in some of the classes, and the large proportions accredited to the garment trades and to "retail dealers," among whom, doubtless, there were many mere peddlers. The distribution of occupations is here set forth in the order of the percentages:

TABLE XXVIII

LIST OF PRINCIPAL OCCUPATIONS REPRESENTED IN PETITIONS FOR NATURALIZATION FILED IN SEVEN CITIES, 1913–14; SHOWING RATIO BETWEEN NUMBER OF PETITIONS AND TOTAL OF FOREIGN-BORN WHITE MALES IN THOSE OCCUPATIONS IN THOSE CITIES IN 1910

OCCUPATIONS	NUMBER OF PETITIONERS IN THOSE OCCUPATIONS	RATIO TO FOREIGN BORN IN THOSE OCCUPATIONS
Total	9,930	3.0
Managers and superintendents	154	7.1
Chauffeurs	176	5.9
Tailors	2,120	5.3
Clergymen	67	4.7
Bartenders	248	3.6
Plumbers	193	3.6
Barbers	372	3.2
Bakers	328	3.1
Retail dealers	2,103	3.1
Painters and glaziers	514	3.1
Carpenters	779	3.0
Salesmen	591	2.8
Manufacturing and officials	511	2.7
Blacksmiths	161	2.7
Motormen	92	2.4
Brick and stone masons	219	2.2
Laborers	1,302	1.5

Analysis of the entire total of 26,284 petitions from which the data were obtained shows a general occupation distribution as follows:

TABLE XXIX

NUMBER AND PER CENT OF PETITIONERS IN EACH OCCUPATION

OCCUPATIONS	PETITIONERS	
	Number	Per Cent
Total	26,284	100.0
Manufacturing and mechanical industries	15,335	58.3
Trade	4,427	16.8
Domestic and personal service	2,382	9.1
Clerical	1,388	5.3
Transportation	1,010	3.8
Professional service	1,026	3.9
Agriculture, forestry, and animal husbandry	454	1.8
Public service	170	0.6
Extraction of minerals	40	0.2
No information	52	0.2

GENERAL CONCLUSIONS

Certain inferences and conclusions seem to be warranted on the whole by the examination and analyses in this chapter and that preceding it, of the compilations of the United States Census, the Immigration Commission of 1907, the Naturalization, Bureau and the Americanization Study.

First, and most important, is the destruction of the legendary presumption of some change for the worse in recent years in the inherent character-quality of immigration to this country, and in the attitude of the typical immigrant of those years toward American citizenship. There has been no such change; indeed, if there is any substantial difference in "quality of assimilability" between the "older" races and the newer, *it is in favor of the latter.*

Second, it is evident that such difference as exists among races is not an inherent racial quality, but *a difference between the political, social, and economic conditions at the time of migration in the country of origin.* Those nations whose people are most free from tyranny and oppression and most contented with the conditions under which they live at home, send the fewest immigrants to America; their emigrants come at a later age, and when they do come they retain longest or altogether their original citizenship.

Third, and broadly corollary, is the fact that the major, not to say exclusively, controlling factor in the political absorption of the immigrant is *length of residence.* The longer the individual lives in America the more likely he is to seek active membership therein.

Fourth, the interval between arrival and petition for naturalization—or even the original declaration of intention—is much longer than has generally been supposed. The average immigrant, regardless of racial extraction, does not concern himself about political privileges or activities until after long years of residence and the attainment of a considerable degree of permanent social and economic status.

Fifth, knowledge of the English language at the time of arrival is not a material factor in determining the rapidity with which the individual seeks citizenship. On the contrary, those of other tongues who have been in the United States as long as those whose mother speech is English show even greater interest and a higher rate of naturalization. In the ordinary case, by the time the immigrant of any race has been in this country long enough to reach the normal stage of interest in naturalization he has acquired a good working knowledge of the language.

Sixth—and from the common-sense point of view it ought to occasion no surprise—is the evident influence

upon the display of "civic and political interest" as shown in the desire for citizenship, of social and economic conditions in this country as they practically affect the individual. Whether from northwestern or from southeastern Europe, whether from the so-called "recent" or "older" immigration, the racial groups show a slower desire for citizenship and a lower rate of naturalization while they are employed in the more poorly paid industries; both the individual interest and the rate increase as the individuals toil upward in the social and economic scale.

The inherent thing in the racial quality, experience, and character of the immigrant that leads some to seek citizenship earlier than others, the essential element in the "quality of assimilability," in the display of "civic and political interest," is a human thing, which lies, and always has lain, broad upon the face of nearly all of the statistical tables over which students have labored so intricately and pontificated so solemnly—in some instances so absurdly. It is a thing so obvious that it is difficult to understand why so many of them have overlooked it.